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SHARON K. WASSERMAN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

Tuesday, 6:00 p.m.,  
January 3, 2006  
25 Van Ness Avenue, #70, Lower Level

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

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**AGENDA**

LARRY BEACH BECKER

DAVID GRUBER

DEBORAH HENDERSON

JIM HURLEY

ANTHONY JUSTMAN

CATHY MOSBRUCKER

NEVEO MOSSER

BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes

IV. Remarks from the Public

**NOTE:** Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

V. Consideration of Appeals

A. 2785 Green St. #1

AT050248

The tenant appeals the decision granting a claim of decreased housing services due to a noisy neighbor.

B. 438 Anza St.

AL050247

The landlord appeals the decision granting a claim of decreased housing services due to loss of use of a deck.

C. 264 Dolores St.

AL050249

The landlord appeals the decision denying a Petition for Extension of Time To Do Capital Improvement Work.

D. 3256 – 21<sup>st</sup> St.

AT050250

The tenant appeals the decision only partially granting claims of decreased housing services.

E. 147 Gladeview Way

AL050251





The landlord appeals the decision partially granting claims of decreased housing services.

F. 175 Hancock St.

AL050252

The landlord appeals the decision granting claims of decreased housing services and determining rent overpayments.

- VI. Communications
- VII. Director's Report
- VIII. Old Business
- IV. Remarks from the Public (cont.)
- IX. New Business
- X. Calendar Items
- XI. Adjournment

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### ACCESSIBLE MEETING POLICY

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### Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

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### Know Your Rights Under the Sunshine Ordinance

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**MINUTES OF THE REGULAR MEETING OF  
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Tuesday, January 3, 2006 at 6:00 p.m. at  
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CATHY MOSBRUCKER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

I. Call to Order

President Wasserman called the meeting to order at 6:05 p.m.

II. Roll Call

Commissioners Present:

Becker; Gruber; Hurley; Marshall;  
Mosbrucker; Wasserman.

Commissioners not Present:

Henderson; Justman; Mosser; Murphy.

Staff Present:

Lee; Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of December 13, 2005.  
(Gruber/Hurley: 5-0)

IV. Consideration of Appeals

A. 2785 Green St. #1

AT050248

The tenant's petition alleging decreased housing services due to noise from a neighboring tenant was granted and the landlord was found liable to the tenant in the amount of \$70.00 per month. On appeal, the tenant claims that: the amount of time granted for the rent reduction should include the initial months of the noisy neighbor's occupancy; the landlord did not make adequate attempts to ameliorate the problem; and the amount granted for the rent reduction is arbitrary and insufficient.

MSC: To recuse Commissioner Becker from consideration of this appeal. (Mosbrucker/Gruber: 5-0)

MSC: To deny the appeal. (Gruber/Hurley: 3-2; Marshall, Mosbrucker dissenting)

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B. 438 Anza St.

AL050247

The tenant's petition alleging decreased housing services due to loss of use of a deck was granted, in part, and the landlord was found liable to the tenant in the amount of \$400.00. No rent reductions were granted during the period that repairs were being undertaken pursuant to the Golden Gateway decision, nor for alterations to the deck as a result of the repairs. The landlord appeals, claiming that: there was no substantial reduction in a housing service; the amount granted is excessive; the landlord should not be held responsible for the results of the tenant's misconduct; the landlord must be given sufficient time to rectify the problem; and the problem was an unavoidable inconvenience only.

MSC: To deny the appeal. (Becker/Marshall: 5-0)

C. 264 Dolores St.

AL050249

The landlord's Petition for Extension of Time to Do Capital Improvement Work was denied because the Administrative Law Judge found that the landlord failed to provide required documents at the time the Petition was filed, failed to immediately file the Petition when it became apparent that the work would take longer than three months, and failed to submit a written contract with the contractor; the landlord's estimate of time to complete the work was also found to be unreasonable. The landlord appeals, asserting that: the tenants were evicted and do not have the right to possession of the subject premises; the landlord was not required to file the subject petition and his electively doing so should not estop him from claiming that the Rent Board no longer has jurisdiction; and the Administrative Law Judge does not have the authority to grant the tenants the right to reoccupy and in so doing exhibited bias on behalf of the tenants.

MSC: To deny the appeal. (Marshall/Becker: 3-2; Gruber, Hurley dissenting)

D. 3256 – 21<sup>st</sup> St.

AT050250

The tenant filed two petitions alleging decreased housing services, which were granted only as to a claim of a defective window in the amount of \$85.00. The tenant appeals, claiming that: the Decision is in error as to the date the window was repaired and the company that did the work; the landlord did not effectuate the repairs within a reasonable amount of time and had constructive notice of the conditions; the damage caused by the radiator was severe and hazardous; the radiator continued to leak after the repairs were done; and the landlord was issued a citation regarding the carpet.



MSC: To deny the appeal. (Gruber/Hurley: 3-2; Becker, Marshall dissenting)

E. 147 Gladeview Way

AL050251

The tenants filed a petition alleging decreased housing services because they believed that the landlord, who lives in the lower unit in the building, would only be on the premises a few nights each month. The petition was granted as to claims of loss of exclusive use of the backyard and loss of quiet enjoyment due to the landlord's unannounced entries into the tenants' unit and the landlord was found liable to the tenants in the amount of \$1,562.50. On appeal, the landlord alleges that: the Administrative Law Judge was not fair and impartial and the Decision was based on fabrications; the written contract between the parties was not considered; and he was not provided equal time to prove his case.

MSC: To deny the appeal. (Becker/Marshall: 4-1; Gruber dissenting)

F. 175 Hancock St.

AL050252

The tenant's petition alleging an unlawful rent increase and decreased housing services was granted and the landlord was found liable to the tenant in the amount of \$11,400.00 for rent overpayments, and \$18,612.50 for loss of a rear deck and garage space. The landlord appeals, asserting that: the landlord does not reside in San Francisco, was unfamiliar with the requirements of the Rent Ordinance and was not acting in bad faith; the decision confers a windfall on the single remaining tenant, who will receive more than his fair share of the overpayments; the tenants were not precluded from using the garage space for the entire period of time; the City required the landlord to remove the deck and prevented him from reconstructing it; the rent reduction granted for removal of the deck is disproportionate to its size and not consistent with Rent Ordinance limitations on rent increases; the principles of laches, estoppel, waiver and statutes of limitation should apply; the amount granted is unfair and creates a hardship for the landlord; and disallowance of the entire increase is confiscatory and violative of the landlord's right to due process, and denies him a fair return.

MSC: To accept the appeal and remand the case to the Administrative Law Judge for a hearing on the extent of the loss of use of the garage space and to have the Master Tenant provide, at the time of the remand hearing, a plan for division of the funds between current and former co-tenants and subtenants. The landlord will be provided with an opportunity to demonstrate financial hardship, if appropriate. (Becker/Marshall: 3-2; Gruber, Hurley dissenting)





VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. A letter from landlord Bill Quan asking that the Board pass regulations allowing a landlord to raise the rent based on increases in water, garbage and PG&E bills if a tenant brings a spouse or other family member in to the unit.

B. An article from the S.F. Chronicle regarding the rise in Ellis Act evictions.

VII. Director's Report

Executive Director Delene Wolf informed the Board that the interest rate on security deposits as of March 1, 2006 would be 3.7%.

VIII. Calendar Items

January 10, 2005 - NO MEETING

January 17, 2005

5 appeal considerations

6:30 Public Hearing: Residential Hotel Visitor Policy

IX. Adjournment

President Wasserman adjourned the meeting at 6:50 p.m.





**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

Tuesday, 6:00 p.m.,  
January 17, 2006

25 Van Ness Avenue, #70, Lower Level

**AGENDA**

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ANTHONY JUSTMAN  
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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 935 Geary St. #1004 & 211 AT050256 & AT060002

The tenants in two units appeal the decision granting utility passthroughs on the grounds of financial hardship.

B. 2264 Francisco St. AT050797

The tenants appeal the decision denying their claims of decreased housing services.

C. 1100 Sacramento #904 AL050254

The landlord appeals the determination that the tenant is a "Tenant in Occupancy" pursuant to Rules Section 1.21.

D. 1335 Washington #6 AL050255 & AT050258

The tenant and Master Tenant appeal the decision finding the Master Tenant liable to the tenant for rent overpayments but determining that a rent increase to market based on Costa-Hawkins is warranted.







E. 46 Sumner St.

AT050257

The tenants appeal the decision granting claims of decreased housing services.

VI. Public Hearing

**6:30** SRO Hotel Visitor Policy

VII. Communications

VIII. Director's Report

IX. Old Business

IV. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

X. New Business

XI. Calendar Items

XII. Adjournment





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December 22, 2005

**NOTICE OF PUBLIC HEARING**

<b>DATE:</b>	January 17, 2006
<b>TIME:</b>	6:30 P.M.
<b>PLACE:</b>	25 VAN NESS AVENUE (AT MARKET ST.) ROOM #70, LOWER LEVEL SAN FRANCISCO, CALIFORNIA

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THE RENT BOARD COMMISSIONERS INVITE THE PUBLIC TO COMMENT ON IMPLEMENTATION OF THE UNIFORM VISITOR POLICY PURSUANT TO SECTION 41D.6 OF THE ADMINISTRATIVE CODE. INTERESTED PARTIES ARE INVITED TO COMMENT ON THE CURRENT POLICY, LAST AMENDED DECEMBER 8, 2004, AND/OR TO PROPOSE ANY AMENDMENTS TO THE POLICY THAT WOULD HELP EFFECTUATE THE GOALS AND REQUIREMENTS OF THIS CHAPTER.

SPEAKERS WILL HAVE THREE (3) MINUTES EACH TO COMMENT ON THE POLICY. COMMENTS MAY ALSO BE MAILED AND SHOULD BE **RECEIVED** AT THE RENT BOARD NO LATER THAN JANUARY 10, 2006, SO THAT THEY CAN BE MAILED AND RECEIVED BY THE COMMISSIONERS PRIOR TO THE HEARING. COMMENTS ARRIVING AFTER THIS TIME MAY NOT BE RECEIVED IN TIME TO BE ADEQUATELY CONSIDERED.

COPIES OF THE POLICY CAN BE OBTAINED AT THE RENT BOARD OFFICE, 25 VAN NESS, SUITE 320, OR ON THE RENT BOARD WEB SITE

([www.sfgov.org/rentboard](http://www.sfgov.org/rentboard)) UNDER "NEWS AND ARCHIVES, 2004." DOCUMENTS DEPT.

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GAVIN NEWSOM  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

DELENE WOLF  
EXECUTIVE DIRECTOR

POLLY MARSHALL  
VICE-PRESIDENT

Tuesday, January 17, 2006 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

LARRY BEACH BECKER  
DAVID GRUBER  
DEBORAH HENDERSON  
JIM HURLEY  
ANTHONY JUSTMAN  
CATHY MOSBRUCKER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

I. Call to Order

President Wasserman called the meeting to order at 6:10 p.m.

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II. Roll Call

Commissioners Present: Becker; Gruber; Hurley; Mosser;  
Wasserman.

Commissioners not Present: Henderson; Justman.

Staff Present: Lee; Wolf.

Commissioner Mosbrucker appeared on the record at 6:14 p.m.;  
Commissioner Marshall arrived at the meeting at 6:16 p.m.; and  
Commissioner Murphy appeared at 6:35 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of January 3, 2006.  
(Gruber/Hurley: 4-0)

IV. Remarks from the Public

A. James Faye, representing the tenant at 1335 Washington #6 (AT050258), told the Board that they have the authority to accept appeals based on hardship. The huge Costa-Hawkins increase the tenant is facing will result in her eviction from the unit, and she is only seeking a temporary deferral of the increase until the summer so that her son doesn't have to change schools. Mr. Faye also informed the Board that the landlord's contention that the tenant conspired with the Master Tenant to defraud the landlord is not true.

B. Tenant Shan Xiao of 1335 Washington told the Board that she has lived in the unit for nine years. Ms. Xiao explained that she put her son in private school because he has ADHD and public school was not working out for him.







She bought her second-hand Toyota because she needed reliable transportation, and the money she has saved is for her son's education or emergencies.

C. Master Tenant Ping Xue of 1335 Washington told the Board she has no money for a lawyer, and that what she said in her appeal is true.

D. Tim Scoler asked how the Board sets the interest rate on security deposits.

E. Tenant James Imbt of 46 Summer St. (AT050257) said that he hopes the Board will approve his appeal so that he will be able to "prove the landlord's lies."

V. Consideration of Appeals

A. 935 Geary St. #1004 & 211

AT050256 & AT060002

The tenant in unit #211 filed his appeal ten days late because he is disabled and his representative was out of town for the holidays.

MSC: To find good cause for the late filing of the appeal.  
(Becker/Marshall: 5-0)

The landlord's petition for a utility passthrough was granted in the amount of \$5.23 monthly. Two tenants appeal the decision on the grounds of financial hardship.

MSC: To accept the appeal of the tenant in unit #211 and remand the case for a hearing on the tenant's claim of financial hardship.  
(Becker/Marshall: 5-0)

MSC: To accept the appeal of the tenant in unit #1004 and remand the case for a hearing on the tenant's claim of financial hardship.  
(Becker/Marshall: 5-0)

B. 2264 Francisco St.

AT050797

The tenants' petition alleging decreased housing services due to loss of use of the back yard and a limitation on use of the laundry room was denied. The tenants appeal, claiming that: the landlord submitted false evidence and statements, and should not be considered credible; the advertisement submitted by the landlord was for a different unit, and the ad for their unit did not preclude use of the back yard; the landlord placed potted plants in the concrete area of the back yard in order to take pictures that would deceive the ALJ; they did not have the opportunity to cross-examine one of the landlord's witnesses, who provided a



letter but did not appear at the hearing; the landlord is upset because of noise the tenants' children make and is trying to drive them out of the unit; and the restrictions on the use of the laundry room are retaliatory on the part of the landlord.

MSC: To deny the appeal. (Gruber/Hurley: 5-0)

C. 1100 Sacramento #904

AL050254

The landlord's petition seeking a determination pursuant to Rules Sections 1.21, 6.14 and Costa-Hawkins was denied because the Administrative Law Judge found that the subject unit is the tenants' principal place of residence. On appeal, the landlord argues that: the Administrative Law Judge failed to consider the fact that the newspaper is delivered to the tenants' Napa Valley estate on a daily basis; the tenants could not enter the building through the garage without coming to the attention of the doormen, who testified to seeing the tenants at the premises infrequently; and the tenant's testimony at the hearing was inconsistent and, therefore, not credible.

MSC: To deny the appeal. (Becker/Marshall: 3-2; Gruber, Hurley dissenting)

D. 1335 Washington #6

AL050255

The tenant filed a petition alleging an unlawful increase in rent and requesting a determination as to the lawful rent for the unit. The Administrative Law Judge found the Master Tenant liable to the tenant in the amount of \$15,500.43 because she was charged more rent for the unit than was paid to the owner. Additionally, because the Master Tenant has vacated the unit, a rent increase to market based on Costa-Hawkins was found to be warranted. The Master Tenant appeals, claiming that: the tenant agreed to pay more than the rent being paid to the landlord in order to reimburse the Master Tenant for childcare services and furniture that she bought from her; the tenant requested that the Master Tenant continue renting the unit in her name so that the rent would not be increased; the tenant knew the contents of the 6.14 notice, because the Master Tenant translated it for her; the tenant knew the amount of rent the Master Tenant was paying to the landlord; and the Master Tenant did not appear at the hearing because the tenant discouraged her from doing so. The tenant also appeals the decision on the grounds of financial hardship.

MSC: To recuse Commissioner Becker from consideration of this appeal. (Mosbrucker/Gruber: 5-0)



After discussion, it was the consensus of the Board to continue consideration of this appeal to the next meeting to see if staff could facilitate a settlement between all the parties.

E. 46 Sumner St.

AL050257

The tenants' petition alleging decreased housing services was granted and the landlords were found liable to the tenants in the amount of \$1,545.00 due to several habitability defects on the premises. However, the Administrative Law Judge did not find long-term verifiable notice to the landlords of the conditions, and granted rent reductions going back only to the date a Notice of Violation was issued, a few months prior to the petition being filed. The tenants appeal on the grounds that: oral notice was repeatedly given to the building manager since 1991; the landlords were on constructive notice as to the conditions; the landlord admitted that he knew about the conditions when he bought the building in 1992; the Administrative Law Judge was misinformed regarding conditions in the unit; and the tenant performed some of the repair work himself, for which he requests reimbursement.

MSC: To accept the appeal and remand the case to the Administrative Law Judge for a new hearing. (Wasserman/Marshall: 4-1; Gruber dissenting)

#### VI. Public Hearing

##### Residential Hotel Visitor Policy

A Public Hearing on issues concerning the Residential Hotel Visitor Policy was convened at 6:55 p.m. and concluded at 8:11 p.m. Thirty individuals spoke as follows below:

1. Tenant Tom Rice of the Mission SRO Collaborative told the Board that access is a problem, because tenants can't have guests or get deliveries when they don't have phones. Mr. Rice disapproves of the retention of IDs in "the age of identify theft," since "even a poor person has something to lose." Mr. Rice said that owners call the police any time they want to oust an individual, and the "cops always side with the landlord." Mr. Rice feels that the Rent Board should fine owners who violate the Visitor Policy.

2. Tenant Wayne Ramsey of Conard House said that all tenants don't comply with the visitation rules and he has been threatened and harassed by a tenant in the building and his visitors. Mr. Ramsey feels that management has been inaccessible and uncommunicative in dealing with the problem. Mr. Ramsey does believe that an adequate logging system of IDs could replace the



current system. Tenants in his building are allowed fourteen overnight visits per month, but “scam for more.”

3. Tenant Representative Dwight Saunders of the Empress Hotel said that the Empress is a “model SRO.” Mr. Saunders felt uncomfortable with “upper middle class people making decisions for people of color,” and said that the Commissioners can’t know because they don’t “live the experience.” He believes that the Rules should be no different for subsidized units than for tourist hotels, and that the Board should come up with the least restrictive policies possible.

4. Charles Maxwell of 88 – 6<sup>th</sup> Street is the Tenant Representative for the 5<sup>th</sup> Floor. Mr. Maxwell said that IDs shouldn’t be taken, although he can see that it’s a safety issue. If an individual doesn’t have proper ID, they shouldn’t be allowed in.

5. Emma Gerauld and Sarah Zimmer of the Civic Center SRO Collaborative said that most of the complaints they get from tenants involve the retention of IDs. Often, the hotels do not give out receipts, lose IDs and refuse to pay the \$75.00 fee. Since it takes two weeks to get a new ID, the person’s life is in limbo during that time, as they can’t access social services. Some hotels take the \$75 out of the desk clerk’s paycheck. Ms. Gerauld and Ms. Zimmer suggested that hotels be required to use a log-in system instead, which many hotels are changing to on their own, since the desk clerks don’t want to be responsible for visitors’ IDs. Photocopying the IDs would also work.

6. Joseph Brown, Tenant Representative at the Pierre Hotel, said that 86-ing a tenant should only last for a year, and the reason should have to be written down. Mr. Brown also feels that a tenant should be able to leave a visitor unattended for a brief period of less than an hour.

7. Tenant Representative Jarman Michaels feels that a tenant shouldn’t have to notify the desk clerk ahead of time in order to have a visitor after 9:00 p.m. – 11:00 should be the cut-off, since tenants shouldn’t be treated like children.

8. Frank Cole spoke in support of the proposals put forward by the Central City SRO Collaborative.

9. Tenant Representative Robert Bowers said that visiting hours should be extended to 11:00 p.m. on weekends and holidays.

10. Tenant Otto Duffy spoke in opposition to the retention of IDs and said that an “inconvenience fee” should be added to the \$75.00, to make it \$300.00. Mr. Duffy said that there are still problems enforcing the ban on visitor fees.





11. Tenant Mark Ellinger said that there is already a Municipal Code in place regarding guest registers, which are more effective and prevent Identity Theft. Mr. Ellinger told the Board that most hotels, except for non-profits, do not have the Visitor Policy posted and most tenants don't know they have a right to \$75.00 if their ID is lost. Mr. Ellinger believes that residential hotels are homes and that tenants who live there shouldn't be discriminated against based on their economic status.

12. Landlord Shorty Lagasca of the Drake Hotel said he would be willing to give back a visitor's ID after taking a photo of it.

13. Landlord Dipak Patel believes that it is unnecessary to meet every year on these issues, and that everyone should "talk reality." Mr. Patel thinks that five overnight visits per month should be allowed and that increased visitors result in higher costs which hotel operators will start petitioning to pass through to tenants.

14. Landlord Adil Shaikh said that the current system is working fine, although it could use some "fine-tuning." Mr. Shaikh feels that an unlimited number of visitors encourages illegal activity; that hotels are different from apartments because of the shared common areas; and that other tenants suffer from excess visitors due to lack of cleanliness, etc. Mr. Shaikh also reminded the Commissioners that IDs could be tampered with.

15. Landlord Hitesh Patel said that residential hotels are not apartment buildings, and that the commercial rates they pay are higher. He asked why hotel operators have to reimburse tenants \$75.00 for a lost ID, when the replacement cost is only \$21.00; especially when tenants use fake IDs that they fraudulently claim were not given back. Most of Mr. Patel's tenants are drug dealers and he believes they would not be able to read a written 86 policy, or would tear it up.

16. Landlord Jay Devdharu wondered what the problem was, since the Policy was just changed one year ago. According to Mr. Devdharu, his tenants do not have a problem with the existing restrictions, because they need to be able to get up and go to work. He believes there should be a maximum number of visitors per day, but exceptions could be made. He wants to be able to continue to hold IDs as a "safeguard," since he then knows when visitors leave the building.

Several landlords in the audience declined to use their three minutes of speaking time, but stated that they agreed with Dipak Patel.



17. Sam Dodge of the Central City SRO Collaborative expressed his belief that the retention of IDs also victimizes owners, which is "the one thing that's proven untenable over the past year." Mr. Dodge said that many private hotels write down the ID number, which is safer. The resident is responsible for their visitor and hotel operators know who the tenant is. Mr. Dodge expressed support for extending visiting hours to 11:00 p.m. and requiring a written reason for seeing someone. Mr. Dodge also cautioned that it is illegal to knowingly rent to drug dealers.

18. Tenant Prince Bush was upset by what he saw as "stupidity from the hotels." He particularly disagrees with not being allowed to have visitors on the 1<sup>st</sup> and 15<sup>th</sup> of the month, which he feels treats residents like convicts. He said that there are roaches running down the walls, but that the Jefferson Hotel is run right.

19. Landlord Prashant Patel said that the Public Hearing should be convened every two years, and that he can't remember everyone's names if he doesn't hold on to IDs.

20. Landlord Vikram Patel said that every California resident should have an ID, according to the Office of Homeland Security.

21. Landlord Vik Patel informed the Board that every one of his ninety tenants does not act responsibly. Mr. Patel feels that there should be a limit on the number of visitors allowed per day and that the retention of IDs acts as a deterrent to those who engage in unlawful behaviors.

22. Landlord Kiran Patel agreed that there should be a limitation on the number of visitors, and said that eight overnights per month is a lot. Keeping the IDs lets the desk clerk know who's going in and acts as an incentive to visitors to check out. He feels it is unrealistic to think the hotel operator can go after the tenant for their visitor's conduct.

23. Landlord Sam Patel noted that the Central City SRO Collaborative surveys Tenderloin Housing Clinic Hotels, which is their parent organization. The John Stewart Company still holds IDs. Mr. Patel informed the Board that the City Attorney who sits on the SRO Task Force went around to hotels to make sure that the Visitor Policy was posted.

24. Tenant Representative Lauren Alden of the Winton Hotel said that it is a hardship to turn over her ID since she has memory impairment. She feels that IDs shouldn't be taken or copied because of concerns about identity theft. Ms. Alden can't escort her visitors because of physical disabilities, and feels she



should be able to leave her visitors unattended. Ms. Alden concluded by saying that visiting hours should be abolished or extended to midnight.

25. Robert Kapaona of the Royan Hotel said that the hotel is "immaculate" since the Tenderloin Housing Clinic (THC) took it over. THC's policy is to copy the ID and give back the printout when the visitor leaves; they now accept out-of-state IDs. Mr. Kapaona experiences problems when his three sons visit because of the two visitors at a time limitation.

26. Tenant Bruce Allison said that it is not necessary to take IDs; entering a residential hotel is not like going in to the Federal Building "under threat of terrorism." The Isabel Hotel has a midnight curfew but he goes to bed early and has never been disturbed.

27. Tenant Joanne Sutton of the Coronado Hotel said that blackout dates should be posted and that eight overnights are not sufficient. Ms. Sutton thinks a tenant should have until midnight to request an overnight visit.

28. Allen White objected to having been told that the Board would not be making extensive changes to the Policy and the fact that all occupants of residential hotels were not notified of the Public Hearing. Mr. White suggested that the Rent Board pay for providing copies of the Visitor Policy to all SRO hotel residents. He expressed his beliefs that people should be allowed to live with dignity and respect, that restrictions on liberty are wrong, and that drug dealing and other behaviors conducted in someone's home are not anyone else's business.

29. Tenant Reed Knopp said he agreed with everyone "with a few modifications." Since "all men are created equal," the Visitor Policy should be enforced uniformly, or not at all. The same rules should apply for the St. Francis Hotel; otherwise, a caste system is being established.

30. Earl Brown of the Mission SRO Collaborative said that IDs are not a "security blanket" and that sign-ins would still allow desk clerks to keep tabs. Mr. Brown suggested putting the responsibility on the tenant for having visitors sign out and said their visitor rights could be suspended if they fail to do so.

The Board briefly discussed the public testimony and agreed that it would be helpful to have the Executive Director convene a Committee of tenant and landlord representatives, as had been done in the past two years. An attempt will be made to find points of agreement, which will be brought back to the Board.

## VII. Communications



In addition to correspondence concerning cases on the calendar and the SRO Hotel Visitor Policy, the Board received the following communications:

A. Several articles from the San Francisco Chronicle and Beyond Chron.

B. A letter to Lora Traveler, President of the Parkmerced Residents' Organization (PRO), written by Executive Director Wolf on behalf of Board President Wasserman.

C. A copy of the Settlement in the Complaint regarding unfair or unlawful business practices regarding utility passthroughs by Olympic View Realty at the Villas Parkmerced.

VIII. Director's Report

Executive Director Wolf informed the Board that there has been a Settlement between the former landlords of the Villas Parkmerced and the San Francisco District Attorney's Office regarding improper utility passthroughs. The Settlement provides that tenants and former tenants of Parkmerced who paid a utility passthrough at any time between August 15, 2000 and January 5, 2006 will be compensated in the range of \$75 - \$100 per unit. Senior Administrative Law Judge Tim Lee gave the Board an overview of the trial court decision on a landlord's omnibus challenge to the eviction provisions in the Oakland Rent Ordinance (Kim v. City of Oakland, Superior Court No. RG03-081362) – the Court upheld most of the provisions of the Ordinance.

IX. Calendar Items

January 24<sup>th</sup> & 31<sup>st</sup>, 2006 - NO MEETINGS

February 7, 2006

5 appeal considerations (1 cont. from 1/17/06)

New Business: Departmental Budget

X. Adjournment

President Wasserman adjourned the meeting at 8:42 p.m.







**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

Tuesday, 6:00 p.m.,  
February 7, 2006  
25 Van Ness Avenue, #70, Lower Level

**AGENDA**

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DAVID GRUBER  
DEBORAH HENDERSON  
JIM HURLEY  
ANTHONY JUSTMAN  
CATHY MOSBRUCKER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 1335 Washington #6 AL050255 & AT050258  
(cont. from 1/17/06)

The tenant and Master Tenant appeal the decision finding the Master Tenant liable to the tenant for rent overpayments but determining that a rent increase based on Costa-Hawkins is warranted.

B. 405 Serrano Dr. #5D AT060005

The tenant appeals the remand decision denying her claim of financial hardship.

C. 882 Haight St. AT060001

The tenants in one unit appeal the decision certifying capital improvement costs.

D. 1090 Eddy St. #507 AL060003

The landlord appeals the decision granting rent reductions due to decreased housing services.





E. 1374 Utah #A

AL060004

The landlords appeal the decision finding them liable to the tenant for rent overpayments and unauthorized utility charges.

VI. Communications

VII. Director's Report

VIII. Old Business

IV. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

IX. New Business

Departmental Budget

X. Calendar Items

XI. Adjournment





### ACCESSIBLE MEETING POLICY

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會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4603。

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### Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

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Timothy Lee has been designated to coordinate this agency's compliance with the nondiscrimination requirements of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided under the Act, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845.

### Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlet Place, Room 244, San Francisco, CA 94102 at 554-7724.





SHARON K. WASSERMAN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

LARRY BEACH BECKER  
DAVID GRUBER  
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JIM HURLEY  
ANTHONY JUSTMAN  
CATHY MOSBRUCKER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

Tuesday, February 7, 2006 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

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I. Call to Order

Vice-President Marshall called the meeting to order at 6:09 p.m.

II. Roll Call

Commissioners Present: Becker; Gruber; Hurley; Justman; Marshall.  
Commissioners not Present: Mosbrucker; Mosser; Murphy; Wasserman.  
Staff Present: Lee; Wolf.

Commissioner Henderson appeared on the record at 6:10 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of January 17, 2006.  
(Gruber/Hurley: 5-0)

IV. Consideration of Appeals

A. 1335 Washington #6

AL050255  
(cont. from 1/17/06)

The tenant filed a petition alleging an unlawful increase in rent and requesting a determination as to the lawful rent for the unit. The Administrative Law Judge found the Master Tenant liable to the tenant in the amount of \$15,500.43 because she was charged more rent for the unit than was paid to the owner. Additionally, because the Master Tenant has vacated the unit, a rent increase to market based on Costa-Hawkins was found to be warranted. The Master Tenant appealed, claiming that: the tenant agreed to pay more than the rent being paid to the landlord in order to reimburse the Master Tenant for childcare services and furniture that she bought from her; the tenant requested that the Master Tenant continue renting the unit in her name so that the rent would not be increased; the tenant knew the contents of the 6.14 notice, because the Master Tenant







translated it for her; the tenant knew the amount of rent the Master Tenant was paying to the landlord; and the Master Tenant did not appear at the hearing because the tenant discouraged her from doing so. The tenant also appealed the decision on the grounds of financial hardship.

After discussion at the January 17<sup>th</sup> meeting, it was the consensus of the Board to continue consideration of this appeal to see if staff could facilitate a settlement between all the parties. At this evening's meeting, Senior Administrative Law Judge Tim Lee reported that a global settlement had been reached, resulting in the dismissal of both appeals.

B. 405 Serrano Dr. #5D

AT060005

The landlord's petition for certification of capital improvement costs was granted, resulting in a monthly passthrough in the amount of \$9.18. The tenant's hardship appeal was accepted and remanded for hearing. However, the Administrative Law Judge found that no evidence was provided to show that the tenant's son could not increase the amount of financial assistance he provided his mother and the hardship appeal was therefore denied. The tenant appeals the remand decision, swearing under penalty of perjury that her son cannot increase the amount of money that he gives her.

MSC: To recuse Commissioner Becker from consideration of this appeal. (Henderson/Gruber: 5-0)

MSC: To deny the appeal. (Gruber/Hurley: 3-2; Henderson, Marshall dissenting)

C. 882 Haight St.

AT060001

The landlord's petition for certification of capital improvement costs to two of three units was granted, in part, resulting in monthly passthroughs of almost \$300.00. The tenants in one unit appeal the decision, claiming that: work on the rear stairs and decks was not undertaken in a timely manner; and there are factual errors in the Decision.

MSC: To deny the appeal except to remand the case to the Administrative Law Judge for a necessary Technical Correction. (Gruber/Hurley: 5-0)

D. 1090 Eddy St. #507

AL060003

The tenant's petition alleging decreased housing services was granted and the landlord was found liable to the tenant in the amount of \$7,050.00 due to water



intrusion in the unit and resulting damaged ceilings and walls. The landlord appeals, asserting that: the Administrative Law Judge used an improper base rent amount; and the tenant refused to allow the landlord to make necessary repairs.

MSC: To deny the appeal. (Becker/Marshall: 5-0)

E. 1374 Utah #A

AL060004

The portion of the tenants' petition alleging decreased housing services was denied. However, \$8,861.29 in rent overpayments and \$1,762.76 in unauthorized utility charges were determined to be owing from the landlords to the tenants. On appeal, the landlords maintain that the tenants failed to meet their burden of proving the amount of rent they were paying in 1994.

This appeal was withdrawn just prior to the meeting.

V. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. Several articles from the San Francisco Chronicle, S.F. Weekly, Beyond Chron and the Bay Guardian.

B. A letter from SRO tenant A. Wayne Ramsey asking that the Board enact stricter visitation rules when re-examining the Hotel Visitor Policy.

C. A letter from Christina Olague and Tony Robles of the Mission SRO Collaborative inviting the Commissioners to visit the Collaborative, the SROs and the SRO tenants that the Collaborative works with. The Executive Director will draft a response on behalf of the Board.

D. A letter from Lamar Johnson, President of the Golden Gateway Tenants Association, requesting one or more of the Tenant Commissioners to attend a Directors' Meeting.

VI. Director's Report

Executive Director Wolf informed the Board that Greg Miller has been hired to fill the vacant counselor position. Mr. Miller previously worked at the S.F. Apartment Association. Senior Administrative Law Judge Tim Lee told the Board that because of the Court of Appeal's ruling in the case of Johnson v. City and County of San Francisco (Court of Appeal No. A111355, Superior Court Case No. 505273),



landlords are no longer required to state the amount of relocation payment the landlord believes to be due to the tenant when evicting under the Ellis Act.

VII. New Business

Departmental Budget

Executive Director Wolf went over the Department's proposed budget for the next fiscal year. The proposed budget of \$4,856,716 is approximately \$180,000 more than the current year's budget, primarily due to salary increases. After a brief discussion, Vice-President Marshall read aloud a letter from the Mayor regarding this year's budgetary process. The Board then passed the following motion:

MSC: To approve the proposed departmental budget for fiscal year 2006-2007. (Gruber/Justman: 5-0)

VIII. Calendar Items

February 14th, 21<sup>st</sup> & 28<sup>th</sup>, 2006 - NO MEETINGS

March 7, 2006

6 appeal considerations (3 rescheduled from 2/21/06)

IX. Adjournment

Vice-President Marshall adjourned the meeting at 7:00 p.m.





GAVIN NEWSOM  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

DELENE WOLF  
EXECUTIVE DIRECTOR

POLLY MARSHALL  
VICE-PRESIDENT

**NOTICE THAT THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

LARRY BEACH BECKER  
DAVID GRUBER  
DEBORAH HENDERSON  
JIM HURLEY  
ANTHONY JUSTMAN  
CATHY MOSBRUCKER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

**SCHEDULED FOR TUESDAY,  
FEBRUARY 21, 2006, HAS BEEN  
CANCELLED**

SF  
R52  
2/21/06  
cancelled  
c.2

**THE NEXT REGULAR MEETING WILL BE HELD ON  
TUESDAY, MARCH 7, 2006 AT 6:00 P.M.**

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SHARON K. WASSERMAN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

Tuesday, 6:00 p.m.,  
March 7, 2006  
25 Van Ness Avenue, #70, Lower Level

AGENDA

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DAVID GRUBER

DEBORAH HENDERSON

JIM HURLEY

ANTHONY JUSTMAN

CATHY MOSBRUCKER

NEVEO MOSSER

BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes

IV. Remarks from the Public

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

V. Consideration of Appeals

A. 405 Serrano Dr. #5D

AT060007

(rescheduled from 2/21/06)

The tenant appeals the decision certifying capital improvement costs.

B. 427A Lisbon St.

AL060008

(rescheduled from 2/21/06)

The landlord appeals the decision granting a claim of unlawful rent increases.

C. 2930 - 21<sup>st</sup> St., Apt. B

AL060006

The landlord appeals the decision determining that no rent increase is warranted under Rules Section 1.21 or Costa-Hawkins.

D. 899 Corbett, No. 1

AT060009

The tenant appeals the decision partially granting a claim of unlawful rent increases.

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E. 645 Stockton St. #505

AT060010

One tenant appeals the decision approving utility passthroughs.

F. 2675 Greenwich St.

AT060011

The tenants appeal the decision determining that a rent increase is warranted pursuant to Costa-Hawkins.

VI. Communications

VII. Director's Report

VIII. Old Business

IV. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

IX. New Business

X. Calendar Items

XI. Adjournment





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SHARON K. WASSERMAN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

Tuesday, March 7, 2006 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

LARRY BEACH BECKER  
DAVID GRUBER  
DEBORAH HENDERSON  
JIM HURLEY  
ANTHONY JUSTMAN  
CATHY MOSBRUCKER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

I. Call to Order

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Commissioner Gruber called the meeting to order at 6:05 p.m.

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II. Roll Call

Commissioners Present: Becker; Gruber; Henderson; Hurley;  
Mosbrucker; Mosser.  
Commissioners not Present: Marshall; Murphy; Wasserman.  
Staff Present: Lee; Wolf.

Commissioner Justman appeared on the record at 6:15 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of February 7, 2006.  
(Becker/Hurley: 4-0)

IV. Remarks from the Public

Attorney Tim Larsen, representing the tenant at 899 Corbett, No. 1 (AT060009), told the Board that the Decision of the Administrative Law Judge was "thoughtful," but merits a second look by the Board. Specifically, Mr. Larsen maintains that the banking calculation is wrong because a 30-day notice would have been required at the time, which would have made the allowable amount 1.6% rather than 4%.

V. Consideration of Appeals

A. 405 Serrano Dr. #5D

AT060007  
(rescheduled from 2/21/06)







The tenant's appeal was filed over eighteen months late because the tenant did not realize that she had the right to appeal the remand decision.

MSC: To recuse Commissioner Becker from consideration of this appeal. (Justman/Mosbrucker: 5-0)

MSC: To find good cause for the late filing of the appeal.  
(Justman/Mosbrucker: 5-0)

The landlord's petition for certification of capital improvement costs was granted, resulting in a monthly passthrough in the amount of \$15.40. The tenant's hardship appeal was denied by the Administrative Law Judge, who found that the tenant had failed to demonstrate that her son could not increase the amount of financial assistance he was providing to her. The tenant appeals the remand decision, swearing under penalty of perjury that her son will not provide her with additional funds.

MSC: To deny the appeal. (Justman/Mosbrucker: 4-1;  
Henderson dissenting)

B. 427A Lisbon St.

AL060008  
(rescheduled from 2/21/06)

The tenant's petition alleging unlawful rent increases was granted and the landlord was found liable to the tenant in the amount of \$13,980.00. On appeal, the landlord states that she increased the rent because of additional occupants in the unit and that her husband is sick and she couldn't leave him to attend the hearing.

This appeal was withdrawn prior to the meeting.

C. 2930 – 21<sup>st</sup> St., Apt. B

AL060006  
(rescheduled from 2/21/06)

The landlord's petition for a rent increase pursuant to Rules Section 1.21 and Costa-Hawkins was denied because the Administrative Law Judge found that two original occupants continue to permanently reside in the subject unit. The landlord appeals, claiming that: tenant Maria Alvarado is not an original occupant because she was not listed on the original rental agreement; tenant Maria Carmen Gutierrez does not permanently reside in the rental unit, has two residences, and spends the majority of her time at the other residence; and tenant Gutierrez should not be found credible because she admits to having used the Social Security card of another individual.



MSC: To deny the appeal on the grounds that tenant Maria Alvarado is an original occupant of the subject unit. (Becker/Justman: 5-0)

D. 899 Corbett, No. 1

AT060009

The tenant's petition alleging unlawful rent increases was granted, in part, and the landlord was found liable to the tenant in the amount of \$102.66. On appeal, the tenant maintains that: the current rent increase anniversary date should be August 15<sup>th</sup>, and not August 1<sup>st</sup>; the landlord was not entitled to a 4% increase for the period March 1, 1992 through December 7, 1992; the landlord was not entitled to a rent increase during the period of time she was the executor of the prior owner's estate; and the August 1<sup>st</sup> 2004 rent increase should be disallowed because there were habitability defects on the premises at that time.

MSC: To recuse Commissioner Justman from consideration of this appeal. (Hurley/Becker: 5-0)

MSC: To deny the appeal. (Hurley/Gruber: 4-0)

E. 645 Stockton St. #505

AT060010

The landlord's petition for approval of a utility passthrough for 25 of 70 units was granted. One tenant appeals the decision, alleging that her apartment consists of two, rather than three rooms, and her passthrough should therefore be a lower amount.

MSC: To accept the appeal and remand the case to the Administrative Law Judge on the issue of the size of the unit; a hearing will be held only if necessary. (Becker/Hurley: 5-0)

F. 2675 Greenwich St.

AT060011

The landlord filed a petition seeking a determination pursuant to Rules Sections 1.21 and 6.14. The Administrative Law Judge found that a rent increase was warranted pursuant to Costa-Hawkins, since the original tenant no longer permanently resides in the subject unit, and the subtenant moved in after January 1, 1996. On appeal, the tenants claim that: the subtenant is actually a co-tenant, since the management company has accepted his rent checks and repair requests; and the original tenant has been traveling to New York frequently due to his father's illness.

MSC: To continue consideration of the appeal to allow the tenant to provide evidence of the issues raised in his appeal; a copy will



be provided to the landlord, who will have one week to respond.  
(Mosbrucker/Becker: 5-0)

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. Several articles from the San Francisco Chronicle, BeyondChron, and the Apartment Owners' Association News.

B. A Pending Litigation Status Report from Senior Administrative Law Judge Tim Lee.

C. Copies of two pieces of legislation recently introduced at the Board of Supervisors' Land Use Committee, one requiring residential hotel owners to provide a mail receptacle for each unit; the other requiring property owners to disclose to buyers within 3 days of entering into a contract for sale the legal grounds for the termination of any tenancy from a unit to be delivered vacant.

D. A notice canceling the March 21<sup>st</sup> Board meeting.

E. A new staff roster.

F. A copy of the appellate decision in the case of Pieri v. CCSF (Court of Appeal No. A110571, Superior Court Case No. 505059), upholding expanded relocation payments to all tenants evicted under the Ellis Act.

G. A copy of the appellate decision in the case of DeLaura v. Beckett (Court of Appeal No. A109948, Superior Court No. 436218), holding that protected status claims are better adjudicated at the Rent Board than through declaratory relief actions in court.

H. A letter from the Parkmerced Residents' Organization (PRO) to Robert Corrigan, President of San Francisco State University, requesting a meeting to discuss the impact of increased student tenancies on the quality of life at Parkmerced.

VII. Director's Report

Senior Administrative Law Judge Tim Lee informed the Board that the City and other rent control jurisdictions have requested publication of the Pieri decision. Additionally, Mr. Lee reported that the City prevailed on the Galvani writ, upholding the Board's finding that a single family dwelling legally designated



as a two-unit building was not exempt pursuant to Costa-Hawkins. Mr. Lee also told the Board that the agency would begin conducting protected status hearings, pursuant to the DeLaura decision. Lastly, Mr. Lee told the Commissioners that the question of whether a 25 or 50% fee interest is required for OMI eviction will soon be resolved in the case of Garber v. Jones.

Executive Director Wolf informed the Board that the capital improvement petition form for small buildings has been greatly simplified, and some of these changes have also been incorporated into the petition used for buildings of six or more units. Ms. Wolf invited the female Commissioners to participate in a photo with the Mayor commemorating Women's History Month. She reminded all the Commissioners that the Office of the City Attorney would provide mandatory Sunshine Ordinance training on March 27<sup>th</sup>; and that Form 700 Statements of Economic Interest are due to the Ethics Commission by April 3<sup>rd</sup>.

#### VIII. Calendar Items

March 14<sup>th</sup>, 21<sup>st</sup> & 28th, 2006 - NO MEETINGS

April 4, 2006

8 appeal considerations (1 cont. from 3/7/06)

#### XI. Adjournment

Commissioner Gruber adjourned the meeting at 7:25 p.m.





**City and County of San Francisco**



SHARON K. WASSERMAN  
*PRESIDENT*

POLLY MARSHALL  
*VICE-PRESIDENT*

**Residential Rent Stabilization  
and Arbitration Board**

GAVIN NEWSOM  
*MAYOR*

DELENE WOLF  
*EXECUTIVE DIRECTOR*

**NOTICE THAT THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

LARRY BEACH BECKER  
DAVID GRUBER  
DEBORAH HENDERSON  
JIM HURLEY  
ANTHONY JUSTMAN  
CATHY MOSBRUCKER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

**SCHEDULED FOR TUESDAY,  
MARCH 21, 2006, HAS BEEN  
CANCELLED**

**THE NEXT REGULAR MEETING WILL BE HELD ON  
TUESDAY, APRIL 4, 2006 AT 6:00 P.M.**

DOCUMENTS DEPT.

MAR - 7 2006

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NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

Tuesday, 6:00 p.m.,  
April 4, 2006  
25 Van Ness Avenue, #70, Lower Level

AGENDA

DOCUMENTS DEPT.

LARRY BEACH BECKER  
DAVID GRUBER  
DEBORAH HENDERSON  
JIM HURLEY  
ANTHONY JUSTMAN  
CATHY MOSBRUCKER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

MAR 28 2006

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NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 32 Sala Terr. AT060013

The tenant appeals the dismissal of her petition alleging an unlawful rent increase due to her failure to appear at the properly noticed hearing.

B. 522 Fell #2 AT060015

The tenants in one unit appeal the decision certifying capital improvement costs on the grounds of financial hardship.

C. 945 Larkin #54 AT060012

The tenant appeals the decision partially granting claims of decreased housing services.

D. 1672 Great Highway AL060014

The landlord appeals the decision denying a Petition for Extension of Time to do Capital Improvement Work.





E. 670 Shotwell

AT060016

The tenant appeals the decision granting the landlord's petition to restore the prior base rent amount.

F. 838 Sansome #58

AL060017

The landlord appeals the decision granting a claim of decreased housing services.

G. 2675 Greenwich St.

AT060011

(cont. from 3/7/06)

The tenants appeal the decision granting a rent increase pursuant to Costa-Hawkins.

H. 430 – 8<sup>th</sup> Ave. #2

AT060018

The tenant appeals the decision denying a claim of decreased housing services.

VI. Communications

VII. Director's Report

VIII. Old Business

IV. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

IX. New Business

X. Calendar Items

XI. Adjournment





### ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4603 at least 72 hours prior to the meeting. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4603 to place your specific request. Late requests will be honored if possible.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4603。

Se pueden obtener servicios de traduccion, ampliacion de sonida, u otras formas de presentacion si se solicitan por lo menos 72 horas antes de la reunion. Llame al 252-4603 para hacer su solicitud.

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### Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Timothy Lee has been designated to coordinate this agency's compliance with the nondiscrimination requirements of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided under the Act, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845.

### Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlet Place, Room 244, San Francisco, CA 94102 at 554-7724.







GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

SHARON K. WASSERMAN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

Tuesday, April 4, 2006 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

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APR 11 2006

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LARRY BEACH BECKER

DAVID GRUBER

DEBORAH HENDERSON I. Call to Order

JIM HURLEY

ANTHONY JUSTMAN

CATHY MOSBRUCKER

NEVEO MOSSER

BARTHOLOMEW MURPHY II. Roll Call

Commissioner Gruber called the meeting to order at 6:08 p.m.

Commissioners Present: Becker; Gruber; Henderson; Hurley;  
Mosser.

Commissioners not Present: Mosbrucker; Wasserman.

Staff Present: Lee; Wolf.

Commissioner Marshall appeared on the record at 6:10 p.m.; Commissioner Justman arrived at the meeting at 6:19 p.m.; and Commissioner Murphy appeared at 6:22 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of March 7, 2006.  
(Becker/Mosser: 4-0)

IV. Remarks from the Public

A. Landlord Mark O'Flynn of 1672 Great Highway (AL060014) told the Commissioners that he was in attendance and would be available to clarify his appeal if they had any questions.

V. Consideration of Appeals

A. 32 Sala Terr.

AT060013

The tenant's petition alleging an unlawful rent increase was dismissed due to his failure to appear at the properly noticed hearing. On appeal, the tenant admits that he made a mistake in noting the hearing date on his calendar.





MSC: To accept the appeal and remand the case for a new hearing.  
Should the tenant again fail to appear, absent extraordinary  
circumstances, no further hearings will be granted.  
(Becker/Henderson: 4-0)

B. 522 Fell #2

AT060015

The landlord's petition for certification of capital improvement costs to two of six units was granted, resulting in a monthly passthrough in the amount of \$37.27. The tenants in one unit appeal the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenants' claim of financial hardship. (Becker/Marshall: 4-0)

C. 945 Larkin #54

AT060012

The tenant's petition alleging decreased housing services was granted in part and denied in part. The landlord was found liable to the tenant in the amount of \$32.67 due to interruptions in cable service, but occasional interruptions in phone service were not found to be substantial. On appeal, the tenant claims that: there are many inaccuracies in the decision; only the landlord and resident manager have access to the telephone box; and the landlord's failure to investigate and remedy the lack of a secure telephone box constitutes a substantial decrease in housing services.

MSC: To deny the appeal. (Hurley/Gruber: 4-0)

D. 1672 Great Highway

AL060014

The landlord's petition for an extension of time to do capital improvement work was denied because the scope of the work exceeded the scope stated in the Notice to Vacate. On appeal, the landlord argues that: the Administrative Law Judge made an erroneous finding and did not consider additional evidence presented by the landlord; the ALJ mistakenly thought that the scope of work for lead remediation was the same as the work upon which the Notice to Vacate was based; the expanded scope of work did not necessitate the extension of time beyond the original three-month estimate; the ALJ erred in concluding that the additional work would not make the unit uninhabitable; the hearing in this case was not scheduled in a timely manner; and the Decision was issued after the tenant reoccupied the property, making the issue moot.

MSC: To deny the appeal. (Marshall/Becker: 4-1; Gruber dissenting)



E. 670 Shotwell St.

AT060016

The landlord's petition seeking permission to restore the prior base rent amount was granted, because the Administrative Law Judge found that the rent had been temporarily reduced by the landlord to accommodate the tenant's financial hardship. On appeal, the tenant claims that: the landlord misled the ALJ and did not lower the rent an additional \$70; the real reasons the landlord reduced the rent were so that the tenants would not move and would not get a third roommate; the landlord's actions are punitive and she is seeking to evict the tenants; and the decision is in error as to the rent history, as well as other factual errors.

MSC: To recuse Commissioner Justman from consideration of this appeal. (Justman/Gruber: 5-0)

MSF: To deny the appeal. (Murphy/Gruber: 2-2; Becker, Marshall dissenting)

This case was continued to the next meeting, when it is anticipated that the other neutral Commissioner, President Wasserman, will be in attendance.

F. 838 Sansome #58

AL060017

The tenant's petition alleging decreased housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$715.00 due to the loss of linen service and failure to post the Hotel Visitor Policy as required. The landlord appeals, arguing that: the linen service claim should be barred by the three-year Statute of Limitations found in the Civil Code; the amount granted for loss of linen service is excessive, since the tenant did not use bed linens; and the amount granted for failure to post the Visitor Policy is arbitrary since the tenant did not suffer any loss, nor would any such loss be substantial.

MSC: To deny the appeal. (Marshall/Becker: 4-1; Gruber dissenting)

G. 2675 Greenwich St.

AT060011

(cont. from 3/7/06)

The landlord filed a petition seeking a determination pursuant to Rules Sections 1.21 and 6.14. The Administrative Law Judge found that a rent increase was warranted pursuant to Costa-Hawkins, since the original tenant no longer permanently resides in the subject unit, and the subtenant moved in after January 1, 1996. On appeal, the tenant claims that: the subtenant is actually a co-tenant, since the management company has accepted his rent checks and repair requests; and that the original tenant has been traveling to New York



frequently due to his father's illness. At the meeting on March 7<sup>th</sup>, this appeal was continued in order to allow the tenant an opportunity to provide evidence that he was a co-tenant rather than a subtenant prior to the issuance of the 6.14 notice.

MSC: To deny the appeal. (Murphy/Gruber: 5-0)

H. 430 – 8<sup>th</sup> Ave. #2

AT060018

The tenant's petition alleging decreased housing services due to noise and odors coming from an upstairs unit was denied. The tenant appeals, claiming that: witness statements submitted by the tenant are accurate and verifiable; the tape recording made by the tenant demonstrates the existence of a humming noise from the other unit; relevant information was omitted from the Decision, while irrelevant information was included; the landlord has not fulfilled her legal responsibilities; the landlord's witness should not have been found to be credible; and the Administrative Law Judge exhibited bias against him.

MSC: To deny the appeal. (Murphy/Gruber: 5-0)

#### VI. Communications

In addition to correspondence concerning cases on the calendar, the Board received the following communications:

A. The Department's Annual Report on Eviction Notices.

B. A Memorandum from City Attorney Dennis Herrera regarding political activity by City officers and employees.

C. Several articles from BeyondChron, the San Francisco Chronicle, and the San Francisco Bay Guardian.

#### VII. Director's Report

Executive Director Wolf reminded the Commissioners that their Form 700 Statements of Economic Interest were due to the Ethics Commission on April 3<sup>rd</sup>, and fines will be assessed for Statements submitted after that date. Ms. Wolf also told the Board that the Committee that will consider proposed changes to the SRO Hotel Visitor Policy would meet tomorrow at the Office of the Rent Board; Commissioners Gruber and Becker will be participants.

#### IV. Remarks from the Public (cont.)





B. The landlord in the case at 670 Shotwell (AT060016) told the Board that the tenant moved out on March 29<sup>th</sup>. Since the noticed rent increase was to go into effect on June 1<sup>st</sup>, no have been overpaid and the appeal is now moot. The landlord was instructed to put this in writing to the Board, along with the tenant's forwarding address.

C. Landlord Mark O'Flynn thanked the Board for their thoughtful consideration of his appeal regarding the property at 1672 Great Highway. However, Mr. O'Flynn believes that the Mayor's Office of Housing didn't act responsibly in his case, and neither did the Rent Board. Mr. O'Flynn maintains that he is \$2,000 in arrears each month on this property, and that there is no incentive for him to remain in the rental business.

VIII. Calendar Items

April 11, 2006 - NO MEETING

6:30 April 18, 2006

8 appeal considerations (1 cont. from 4/4/06)

IX. Adjournment

Commissioner Gruber adjourned the meeting at 7:15 p.m.





SHARON K. WASSERMAN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

Tuesday, 6:30 p.m.,

April 18, 2006

25 Van Ness Avenue, #70, Lower Level

AGENDA

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APR 11 2006

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04-11-07A10:20 RC/b

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 620 Jones St. #602

AT060024

The tenant appeals the dismissal of his petition alleging decreased housing services due to his failure to appear at the hearing.

B. 816 Scott St.

AL060022

The landlord appeals the decision granting a claim of decreased housing services.

C. 237 Parque Dr.

AL060020

The landlord appeals the remand decision granting a claim of unlawful rent increase.

E. 4444 Balboa

AT060019

The tenant appeals the decision finding that a rent increase is warranted pursuant to Costa-Hawkins.





F. 5949 Geary Blvd. #5

AT060021

The tenant appeals the decision determining that she is not a "Tenant in Occupancy" pursuant to Rules Section 1.21.

G. 1906 Mission #310

AL060025

The landlord appeals the decision granting a claim of decreased housing services.

H. 228 Hyde St.

AL060026

The landlord appeals the decision granting a claim of decreased housing services.

VI. Communications

VII. Director's Report

VIII. Old Business

IV. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

IX. New Business

X. Calendar Items

XI. Adjournment





## ACCESSIBLE MEETING POLICY

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NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

GAVIN NEWSOM  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

DELENE WOLF  
EXECUTIVE DIRECTOR

POLLY MARSHALL  
VICE-PRESIDENT

Tuesday, **6:30 p.m.**,  
April 18, 2006  
25 Van Ness Avenue, #70, Lower Level

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APR 17 2006

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4-17-07 A 0.02 1000

AMENDED AGENDA

LARRY BEACH BECKER  
DAVID GRUBER  
DEBORAH HENDERSON  
JIM HURLEY  
ANTHONY JUSTMAN  
CATHY MOSBRUCKER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes

- IV. Remarks from the Public

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 620 Jones St. #602 AT060024

The tenant appeals the dismissal of his petition alleging decreased housing services due to his failure to appear at the hearing.

B. 816 Scott St. AL060022

The landlord appeals the decision granting a claim of decreased housing services.

C. 237 Parque Dr. AL060020

The landlord appeals the remand decision granting a claim of unlawful rent increase.

E. 4444 Balboa AT060019

The tenant appeals the decision finding that a rent increase is warranted pursuant to Costa-Hawkins.





F. 5949 Geary Blvd. #5

AT060021

The tenant appeals the decision determining that she is not a "Tenant in Occupancy" pursuant to Rules Section 1.21.

G. 1906 Mission #310

AL060025

The landlord appeals the decision granting a claim of decreased housing services.

H. 228 Hyde St.

AL060026

The landlord appeals the decision granting a claim of decreased housing services.

I. 670 Shotwell St.

AT060016

(cont. from 4/4/06)

The tenant appeals the decision granting the landlord's petition to restore the prior base rent amount.

VI. Communications

VII. Director's Report

VIII. Old Business

IV. Remarks from the Public (cont.)

**NOTE:** Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

IX. New Business

X. Calendar Items

XI. Adjournment



City and County of San Francisco

Residential Rent Stabilization  
and Arbitration Board



SHARON K. WASSERMAN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

LARRY BEACH BECKER  
DAVID GRUBER  
DEBORAH HENDERSON  
JIM HURLEY  
ANTHONY JUSTMAN  
CATHY MOSBRUCKER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

Tuesday, April 18, 2006 at 6:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

DOCUMENTS DEPT.

APR 27 2006

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I. Call to Order

President Wasserman called the meeting to order at 6:40 p.m.

II. Roll Call

Commissioners Present:

Becker; Henderson; Hurley; Mosbrucker;  
Wasserman.

Commissioners not Present:

Gruber; Justman; Mosser.

Staff Present:

Lee; Wolf.

Commissioner Marshall appeared on the record at 6:49 p.m.; Commissioner  
Murphy arrived at the meeting at 6:55 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of April 4, 2006.  
(Becker/Hurley: 4-0)

IV. Remarks from the Public

Attorney Jeffrey Chen, representing the landlord at 237 Parque Drive  
(AL060020), asked the Board to "look at the whole case," since there had only  
been one rent increase in almost fifteen years. Mr. Chen asserted that the rent  
increase was attributable to the additional housing service of a bedroom  
downstairs, which the tenant denies. Mr. Chen also said that the tenant rents  
this bedroom out for \$400 per month, when the rent increase was only \$300 per  
month. According to Mr. Chen, the landlord in this case thought that a lease  
signed by the tenant was "good enough."

V. Consideration of Appeals

A. 620 Jones St. #602

AT060024



The tenant's petition alleging decreased housing services was dismissed due to the tenant's failure to appear at the properly noticed hearing. On appeal, the tenant claims to have had the flu on the day of the hearing.

MSC: To accept the appeal and remand the case for a new hearing.  
(Becker/Marshall: 5-0)

B. 816 Scott St.

AL060022

The tenant's petition alleging decreased housing services was granted and the landlord was found liable to the tenant in the amount of \$2,483.80 due to habitability defects on the premises. The landlord appeals, claiming that: he did not have notice of the hole in the closet ceiling and broken windows in the unit until two months after the date stated in the Decision; and there appears to be a mathematical error in the computation of the landlord's liability.

MSC: To accept the appeal and remand the case to the Administrative Law Judge on the issue of when the rent reductions should commence; a hearing will be held only if necessary.  
(Murphy/Hurley: 5-0)

C. 237 Parque Dr.

AL060020

The tenant's petition alleging an unlawful rent increase was granted and the landlord was found liable to the tenant in the amount of \$12,200.00. On appeal, the landlord claimed that the increase in rent was warranted because the additional housing service of a downstairs bedroom was provided to the tenant. The landlord's appeal was accepted and the case was remanded to the Administrative Law Judge on this issue. The Decision on Remand upholds the original decision, finding that the tenant's rent always included use of the downstairs bedroom. The landlord appeals the remand decision, claiming that: there is new evidence which proves his claim; the decision is unfair because there was only one rent increase in fifteen years; the Master Tenant's rent is now disproportionate to his subtenant's rent; and the decision presents him with a financial hardship.

MSC: To accept the appeal on the issue of landlord hardship only; a hardship hearing will be held upon a threshold showing that the landlord meets the Board's hardship guidelines. The appeal is denied as to all other issues. (Becker/Marshall: 3-1; Hurley dissenting)

D. 4444 Balboa

AT060019





The tenant's petition alleging an unlawful increase in rent was denied because the Administrative Law Judge found that the tenant no longer permanently resides in the subject unit and the increase is warranted pursuant to Costa-Hawkins. A claim of decreased housing services was granted, however, and the landlord was found liable to the tenant in the amount of \$270.00. On appeal, the tenant maintains that: the evidence shows that he resided in the unit during the summer of 2005; the documentary evidence establishes the unit as his principal place of residence; there are factual errors in the Decision; only the landlord could have locked him out of the apartment in 2002; he has never rented out the entirety of the unit and has never rented out more than one room; since 2004, he has been temporarily absent while attending school, and the period before that time is irrelevant.

MSC: To deny the appeal. (Murphy/Hurley: 5-0)

E. 5949 Geary Blvd. #5

AT060021

The landlord's petition for a determination pursuant to Rules Section 1.21 was granted because the Administrative Law Judge found that the tenant is not a "Tenant in Occupancy" of the subject unit. The tenant appeals, claiming that: the Rent Ordinance does not require that a unit be the tenant's principal place of residence; in a lawsuit she recently filed, the tenant states that she lives at the Geary Boulevard address; the Administrative Law Judge relied on hearsay evidence submitted by the landlord; the tenant has no other residence; the tenant fell ill while visiting friends in Australia, which has prevented her return; and the hearing should have been continued in order for the tenant or her representative to attend.

MSC: To recuse Commissioner Mosbrucker from consideration of this appeal. (Murphy/Marshall: 5-0)

MSC: To deny the appeal. (Murphy/Hurley: 4-1; Becker dissenting)

F. 1906 Mission St. #310

AL060025

The tenants' petition alleging decreased housing services was granted, in part, and the landlord was found liable to the tenants in the amount of \$751.50 due to habitability defects and lack of caretaker access after 9:00 p.m. in this residential hotel. On appeal, the landlord maintains that: the tenants failed to prove the value of the housing services and the rent reductions granted by the Administrative Law Judge are arbitrary; the Rent Board does not have jurisdiction over this case, since the tenants have vacated the unit; the State law standard of habitability should have been used to evaluate the tenants' claims; the tenants



may have caused some of the problems themselves; and the landlord's evidence and attempts at mitigation were not taken seriously by the ALJ.

MSC: To deny the appeal. (Becker/Murphy: 5-0)

G. 228 Hyde St.

AL060026

The tenants' petition alleging decreased housing services was granted and the tenants' rent was reduced by \$1,080 per month due to serious habitability defects on the premises. On appeal, the landlord claims that: the lease for the premises was ignored by the ALJ; the tenants were behind in their rent and created a nuisance; there are additional occupants on the premises; a \$300 rent reduction was given for the lack of gas service in the unit; the lock on the gate is necessary for security; refuse was picked up, although not by Sunset Scavenger; and the tenants are liable for damage to the unit.

MSC: To deny the appeal. (Marshall/Becker: 5-0)

H. 670 Shotwell St.

AT060016

(cont. from 4/4/06)

The landlord's petition seeking permission to restore the prior base rent amount was granted, because the Administrative Law Judge found that the rent had been temporarily reduced by the landlord to accommodate the tenant's financial hardship. On appeal, the tenant claims that: the landlord misled the ALJ and did not lower the rent an additional \$70; the real reasons the landlord reduced the rent were so that the tenants would not move and would not get a third roommate; the landlord's actions are punitive and she is seeking to evict the tenants; and the decision is in error as to the rent history, as well as other factual errors. This case was continued from the April 4<sup>th</sup> Board meeting, when it was anticipated that the other voting neutral Commissioner would be present, as Commissioner Justman was recused from considering this case.

Pursuant to a request from the tenant, this matter was again continued. The appeal was subsequently withdrawn.

#### VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. Several articles from BeyondChron and the San Francisco Chronicle.



B. An article about the phase-out of rent control in the Czech Republic from Commissioner Murphy.

C. The office workload statistics for the month of March.

VII. Director's Report

Executive Director Wolf informed the Board that the Committee to consider changes to the Residential Hotel Visitor Policy met and had a highly productive session, coming to agreement on each of the issues raised at the Public Hearing. These suggestions will be forwarded to the Board for another Public Hearing in the near future. Also, Commissioner Becker had suggested that a photographic portrait be taken of the Commissioners, which Ms. Wolf will work on arranging.

VIII. Calendar Items

April 25, 2006 - NO MEETING

May 2, 2006

5 appeal considerations

IX. Adjournment

President Wasserman adjourned the meeting at 7:32 p.m.





**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

Tuesday, 6:00 p.m.,  
May 2, 2006  
25 Van Ness Avenue, #70, Lower Level

**AGENDA**

DOCUMENTS DEPT.

APR 27 2006

SAN FRANCISCO  
PUBLIC LIBRARY

04-27-07A10.10 - 10

LARRY BEACH BECKER  
DAVID GRUBER  
DEBORAH HENDERSON  
JIM HURLEY  
ANTHONY JUSTMAN  
CATHY MOSBRUCKER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 2775 Market #105 AT060032

The tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.

B. 21 "A" Mirabel Ave. AT060027

The tenants appeal the decision denying their claims of decreased housing services related to alleged noise from the downstairs unit.

C. 4444 Balboa St., Apt. #106 AL060029

The Master Tenant appeals the decision granting a claim that the subtenant paid a disproportional share of the rent pursuant to Rules Section 6.15C(3).

D. 1160 Clay St. AL060030

The landlord appeals the denial of a petition for certification of capital improvement costs due to the tenants' objection that the work was not necessary for health or safety reasons.





E. 827 Pierce/1401-1403 McAllister

AL060028

The landlord appeals the decision denying certification of substantial rehabilitation exemption from the Ordinance.

- VI. Communications
- VII. Director's Report
- VIII. Old Business
- IV. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

- IX. New Business
- X. Calendar Items
- XI. Adjournment





## **ACCESSIBLE MEETING POLICY**

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4603 at least 72 hours prior to the meeting. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4603 to place your specific request. Late requests will be honored if possible.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4603。

Se pueden obtener servicios de traduccion, ampliacion de sonida, u otras formas de presentacion si se solicitan por lo menos 72 horas antes de la reunion. Llame al 252-4603 para hacer su solicitud.

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals.

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There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

## **Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement**

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Timothy Lee has been designated to coordinate this agency's compliance with the nondiscrimination requirements of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided under the Act, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845.

## **Know Your Rights Under the Sunshine Ordinance**

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlet Place, Room 244, San Francisco, CA 94102 at 554-7724.





SHARON K. WASSERMAN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

Tuesday, May 2, 2006 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

DOCUMENTS DEPT.

MAY 10 2006

SAN FRANCISCO  
PUBLIC LIBRARY

LARRY BEACH BECKER  
DAVID GRUBER  
DEBORAH HENDERSON  
JIM HURLEY  
ANTHONY JUSTMAN  
CATHY MOSBRUCKER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

I. Call to Order

President Wasserman called the meeting to order at 6:10 p.m.

II. Roll Call

Commissioners Present: Becker; Gruber; Henderson; Hurley;  
Marshall; Mosbrucker; Mosser;  
Wasserman.  
Commissioners not Present: Murphy.  
Staff Present: Lee; Wolf.

Commissioner Justman appeared on the record at 6:14 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of April 18, 2006.  
(Gruber/Becker: 5-0)

IV. Remarks from the Public

Ron Schivo, Attorney for the tenants at 827 Pierce/1401-1403 McAllister  
(AL060028), introduced his clients and told the Board that the Decision of the  
Administrative Law Judge should be affirmed for all of the reasons stated in his  
brief.

V. Consideration of Appeals

A. 2775 Market #105 AT060032

The landlords' petition for certification of capital improvement costs to 16 of 26  
units was granted, resulting in a monthly passthrough in the amount of \$51.47.  
The tenant in one unit appeals the decision on the grounds of financial hardship.



MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Marshall: 5-0)

B. 21 "A" Mirabel Ave.

AT060027

The tenants' petition alleging decreased housing services due to noise from tenants in the upstairs unit was denied. The tenants appeal, claiming that: the problems with the upstairs tenants are continuing; the tenants met their burden of proving that the upstairs tenants make an unreasonable amount of noise; the Administrative Law Judge exhibited bias against them, and wouldn't accept their taped evidence; and the upstairs tenants should not have been found to be credible.

MSC: To deny the appeal. (Gruber/Hurley: 5-0)

C. 4444 Balboa St., Apt. #106

AL060029

The subtenant filed a petition alleging decreased housing services and seeking a determination as to whether she was paying a proportional share of the rent pursuant to Rules Section 6.15C(3). The Administrative Law Judge (ALJ) found the Master Tenant liable in the amount of \$2,418.00 due to rent overpayments and \$290.00 based on decreased housing services. The Master Tenant also filed a petition, seeking a determination of the proper amount of rent the subtenant should pay "going forward;" the amount being tendered was found to be lawful. On appeal, the Master Tenant claims that: the ALJ exhibited bias against him and on behalf of the subtenant; the master bedroom was a common area that the subtenant was free to use; there are factual inaccuracies in the decision; the subtenant was not prevented in her use of the living room by the presence of another subtenant in the unit, because they kept different hours; the ALJ exceeded her authority in ruling on the validity of a rent increase issued to the Master Tenant by the landlord; the mail box key was removed as a security measure, and the subtenant always had access to her mail; and the subtenant failed to provide notice of the problem with the oven, and received more than her fair share of the rent reduction granted for this loss.

MSC: To deny the appeal. (Gruber/Marshall: 5-0)

D. 1160 Clay St.

AL060030

The landlord filed a petition for certification of the costs of a new sub floor and carpeting to one unit in a fifteen unit building. The petition was denied because the Administrative Law Judge found that the work was done in order to reduce the noise between the subject unit and another unit in the building, was not necessary for health or safety reasons, and the tenants objected at the hearing to





paying for the cost of the work. On appeal, the landlord argues that: the regulation requires that the tenants object to the installation, whereas these tenants wanted the work to be done; and amelioration of noise is a valid health concern.

MSC: To accept the appeal and reverse the Decision. The case shall be remanded to the Administrative Law Judge to allocate a fair proportion of the costs to this unit; the landlord may amend the petition or file a new petition if he believes other units in the building were benefited as well. (Hurley/Gruber: 5-0)

E. 827 Pierce/1401-1403 McAllister

AL060028

The landlords' appeal was filed one day late because the landlords assumed that Cesar Chavez Day was a legal holiday.

MSC: To find good cause for the late filing of the appeal.  
(Becker/Gruber: 5-0)

The landlords' petition for certification of substantial rehabilitation exemption was denied because the Administrative Law Judge (ALJ) found that the landlords had failed to prove that the building was essentially uninhabitable prior to the work being done. On appeal, the landlords argue that: the ALJ exceeded her authority in developing a standard for determining when a property is "essentially uninhabitable" for purposes of substantial rehabilitation exemption from the Ordinance; the lack of a known standard is violative of the landlord's due process rights and the standard used by the ALJ conflicts with the definition of substantial rehabilitation in the Rent Ordinance; the standards for certification of substantial rehabilitation are impossible to meet, which was known to the Board; petitioners are being punished for attempting to comply with the regulations, because the only report they could obtain applied the standard for conversion to condominiums; the evidence showed that the building was untenable; the prior landlords had standing to file and pursue the petition but were not allowed to do so, to their potential detriment in pending litigation between the parties; it was therefore discriminatory to grant standing to the former tenants, who are not tenants as defined in the Ordinance; the tenants' wrongful eviction claims are not relevant; and the rules and procedures governing substantial rehabilitation exemption from the Ordinance should not provide a disincentive to the undertaking of necessary major renovations and the resulting loss of rental units from the market.

MSC: To deny the appeal. (Becker/Marshall: 3-2; Gruber, Hurley dissenting)



VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. Several articles from the San Francisco Examiner, San Francisco Chronicle and BeyondChron.

B. A letter from the San Francisco Apartment Association to Ed Lee, Chair of the Rate Board, asking that a direct procedure be implemented for the passthrough of upcoming increases in garbage costs.

C. A copy of legislation introduced by Supervisor Peskin that would prohibit condo conversion if tenants in two units or an elderly or disabled tenant were evicted for specified no-fault evictions since January 1, 1999.

VII. Director's Report

Executive Director Wolf informed the Board that Senior Administrative Law Judge Sandy Gartzman has agreed to take a photographic portrait of the Commissioners at a future Board meeting.

VIII. New Business

Commissioner Justman asked that consideration of amendments to the substantial rehabilitation regulations be calendared for a future Board meeting, after consultation with the Office of the City Attorney.

IX. Calendar Items

May 9, 2006 - NO MEETING

May 16, 2006

6:30 7 appeal considerations

X. Adjournment

President Wasserman adjourned the meeting at 7:15 p.m.





NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

Tuesday, 6:30 p.m.,  
May 16, 2006  
25 Van Ness Avenue, #70, Lower Level

AGENDA

DOCUMENTS DEPT.

MAY 10 2006

SAN FRANCISCO  
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05-10-07A10:05 RCLVD

LARRY BEACH BECKER  
DAVID GRUBER  
DEBORAH HENDERSON  
JIM HURLEY  
ANTHONY JUSTMAN  
CATHY MOSBRUCKER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

V. Consideration of Appeals

A. 55 Chumasero 1-M AT060047

The tenant in one unit appeals the decision approving a utility passthrough on the grounds of financial hardship.

B. 295 Monterey #2 AT060044 & -45

The tenant appeals two decisions certifying capital improvement costs on the grounds of financial hardship.

C. 100 Font Blvd. #7C AT060046

The tenant in one unit appeals the decision approving a utility passthrough on the grounds of financial hardship.

D. 652 Waller St. AT060033

The tenant appeals the decision granting certification of capital improvement costs.



E. 3536-3538 – 17<sup>th</sup> St.

AT060035 thru -42

The tenants in five units appeal the decision certifying capital improvement costs on substantive grounds; the tenants in one unit also appeal on the grounds of financial hardship.

F. 1514 Waller St.

AL060034

The landlord appeals the decision partially granting certification of capital improvement costs, but disallowing certain costs due to a notice of violation having been unabated for 90 days.

G. 435 Powell #3

AT060043

The tenants appeal the decision refunding overpayments due to unlawful rent increases.

VI. Communications

VII. Director's Report

VIII. Old Business

IV. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

IX. New Business

X. Calendar Items

XI. Adjournment







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GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

Tuesday, May 16, 2006 at 6:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT.

MAY 31 2006

SAN FRANCISCO  
PUBLIC LIBRARY

LARRY BEACH BECKER

DAVID GRUBER

DEBORAH HENDERSON

JIM HURLEY

ANTHONY JUSTMAN

CATHY MOSBRUCKER

NEVEO MOSSER

BARTHOLOMEW MURPHY

I. Call to Order

President Wasserman called the meeting to order at 6:35 p.m.

II. Roll Call

Commissioners Present: Becker; Gruber; Henderson; Hurley;  
Mosbrucker; Mosser; Wasserman.  
Commissioners not Present: Justman; Marshall; Murphy.  
Staff Present: Lee; Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of May 2, 2006.  
(Mosbrucker/Hurley: 5-0)

IV. Consideration of Appeals

A. 55 Chumasero 1-M

AT060047

The landlord's petition for approval of a utility passthrough for 67 of 153 units was approved. One tenant appeals the \$15.46 passthrough on the grounds of financial hardship.

MSC: To recuse Commissioner Becker from consideration of this appeal. (Mosbrucker/Gruber: 5-0)

MSC: To accept the appeal and remand the case to the Administrative Law Judge for a hearing on the tenant's claim of financial hardship. (Mosbrucker/Henderson: 5-0)

B. 295 Monterey

AT060044 & -45





The tenant's appeal of a decision certifying capital improvement costs on the grounds of financial hardship was filed over seven years late because the tenant did not know there was a time limit on filing for hardship, and she has become disabled since the time the Decision was issued.

MSC: To find no good cause for the late filing of the appeal. The Decision is therefore final. (Gruber/Hurley: 4-1; Becker dissenting)

The landlord's petition for certification of capital improvement costs was granted. The tenant in one unit appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case to the Administrative Law Judge for a hearing on the tenant's claim of financial hardship. (Becker/Mosbrucker: 5-0)

C. 100 Font Blvd. #7-C

AT060046

The landlord's petition for approval of a utility passthrough for 52 of 153 units was approved. One tenant appeals the \$10.88 passthrough on the grounds of financial hardship.

MSC: To recuse Commissioner Becker from consideration of this appeal. (Mosbrucker/Gruber: 5-0)

MSC: To accept the appeal and remand the case to the Administrative Law Judge for a hearing on the tenant's claim of financial hardship. (Mosbrucker/Henderson: 5-0)

D. 652 Waller St.

AT060033

The landlords' petition for certification of capital improvement costs to one of three units was granted, resulting in a monthly passthrough in the amount of \$656.27. The tenant appeals, claiming that: his objections were not carefully considered by the Administrative Law Judge; the landlords failed to meet their burden of proving that the new foundation was necessary for reasons of safety; the intent of the landlords was always to build a new garage, and not to seismically strengthen the building; the construction costs were so high that the work appeals to a wealthier class of tenants; and there has always been adequate space for storing garbage cans in the tradesmen's area of the building.

MSF: To deny the appeal. (Gruber/Hurley: 2-3; Becker, Mosbrucker, Wasserman dissenting)



MSC: To accept the appeal and remand the case to an Administrative Law Judge for a hearing to exclude any net costs that can be attributed solely to the construction of the garage; the burden of proof shall be on the tenant. (Becker/Mosbrucker: 4-1; Gruber dissenting)

E. 3536-3538 – 17<sup>th</sup> St.

AT060035 thru -42

The landlords' petition for certification of capital improvement costs to five of six units was granted. All of the tenants appeal the decision on the grounds that: the deferred maintenance defense was interpreted too narrowly by the Administrative Law Judge; unallocated, non-residential space benefiting the landlord should have been included in the allocation; the replacement of the water heater was necessitated by deferred maintenance; and there was abundant evidence of landlord neglect and lack of maintenance. The tenant in Apt. A additionally asserts that the landlord representative lied at the hearing; that the Notice of Violation has in fact never been abated; and the costs were not substantiated by cancelled checks or invoices, but only by estimates. The tenants in unit 3538 additionally appeal the decision on the grounds of financial hardship.

MSC: To deny the hardship appeal of the tenants in unit 3538.  
(Gruber/Hurley: 5-0)

MSC: To deny the joint appeal filed by the tenants in five units.  
(Gruber/Hurley: 5-0)

MSC: To accept the appeal filed by the tenant in unit 3538 A and remand the case to the Administrative Law Judge for a hearing on the issue of whether the costs of the wall heater in that unit should be certified. (Becker/Gruber: 5-0)

F. 1514 Waller St.

AL060034

The landlords' petition for certification of capital improvement work was granted, in part. However, the costs of side passageway and rear stair work were disallowed because the Administrative Law Judge found that the work was required to correct code violations for which a notice of violation had been issued and remained unabated for 90 days. On appeal, the landlords submit additional evidence to demonstrate that timely good faith efforts were made to commence and complete the work within the 90-day period, and show that the landlords were hampered by circumstances beyond their control.





MSC: To accept the appeal and remand the case to the Administrative Law Judge for a hearing to consider the new evidence submitted by the landlords on appeal. (Gruber/Hurley: 4-1; Mosbrucker dissenting)

G. 435 Powell #3

AT060043

The tenants' petition alleging unlawful rent increases and requesting a determination of the proper base rent was granted and the landlord was found liable to the tenants in the amount of \$2,167.20. On appeal, the tenants claim that: the amount granted is incorrect, as one of the tenants worked for the owner of the building for several years, and the rent was deducted from his wages; a \$30.00 late fee was added to the base rent; and the Decision is in error as to the amount of rent that was paid.

MSC: To accept the appeal and remand the case to the Administrative Law Judge on the record to increase the amount of the overpayments by \$66.00; the appeal is denied as to all other issues. (Gruber/Hurley: 4-1; Mosbrucker dissenting)

V. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. A copy of legislation introduced by Supervisor Mirkarimi that will be heard before the Land Use Committee on May 24<sup>th</sup> that provides that garages or common areas of the building cannot be taken away without Just Cause.

B. Several articles from BeyondChron, the San Francisco Chronicle and the San Francisco Examiner.

VI. Director's Report

Executive Director Wolf informed the Board that the departmental budget would go to the Budget and Finance Committee of the Board of Supervisors for first reading on Wednesday, May 24<sup>th</sup>.

VII. Remarks from the Public

A. Landlord Jim Liefer of 652 Waller St. (AT060033) told the Board that substantial sums were invested in the renovation of the property and went over the construction alternatives that the owners were faced with. Mr. Liefer felt that,



if the Commissioners had read the case more closely, they wouldn't have engaged in so much speculation.

B. Landlord Robert Stahman of 652 Waller reiterated much of what was expressed by landlord Liefer, and told the Board that there had not been a garage on the premises prior to the construction.

VIII. Calendar Items

May 23, 2006 - NO MEETING

May 30, 2006

3 appeal considerations

6:00 Public Hearing: SRO Hotel Visitor Policy

IX. Adjournment

President Wasserman adjourned the meeting at 7:40 p.m.





GAVIN NEWSOM  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

May 17, 2006

DELENE WOLF  
EXECUTIVE DIRECTOR

NOTICE OF PUBLIC HEARING

POLLY MARSHALL  
VICE-PRESIDENT

DATE:	May 30, 2006	DOCUMENTS DEPT.  MAY 31 2006  SAN FRANCISCO PUBLIC LIBRARY
TIME:	6:00 P.M.	
PLACE:	25 VAN NESS AVENUE (AT MARKET ST.) ROOM #70, LOWER LEVEL SAN FRANCISCO, CALIFORNIA	

LARRY BEACH BECKER  
DAVID GRUBER  
DEBORAH HENDERSON  
JIM HURLEY  
ANTHONY JUSTMAN  
CATHY MOSBRUCKER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

THE RENT BOARD COMMISSIONERS INVITE THE PUBLIC TO COMMENT ON IMPLEMENTATION OF THE UNIFORM VISITOR POLICY PURSUANT TO SECTION 41D.6 OF THE ADMINISTRATIVE CODE. A COMMITTEE WAS CONVENED TO ADDRESS ISSUES RAISED AT A PUBLIC HEARING ON THE VISITOR POLICY, WHICH WAS HELD ON JANUARY 17, 2006. THE SUGGESTIONS OF THAT COMMITTEE WERE TO: ESTABLISH 11:00 A.M. AS A MORNING CHECK-OUT TIME; HAVE VIOLATIONS OF THE POLICY EXPIRE AFTER EIGHTEEN MONTHS; AND DISALLOW THE RETENTION OF IDs, BUT PROVIDE THAT TENANTS MUST ESCORT THEIR VISITORS OUT OF THE BUILDING, WITH THE LOSS OF VISITOR PRIVILEGES FOR THIRTY DAYS IF THEY DO NOT DO SO. SUBSEQUENT TO THE COMMITTEE MEETING, A SUGGESTION WAS ALSO MADE TO REVERT THE CURRENT LANGUAGE, "CAREGIVERS OF DISABLED TENANTS SHALL BE EXEMPT FROM VISITOR LIMITATIONS" BACK TO "PROFESSIONAL AND/OR NECESSARY SERVICE PROVIDERS SHALL NOT BE COUNTED TOWARDS THE VISITOR LIMITATION RULE", AS THE CURRENT LANGUAGE WOULD NOT APPLY TO NECESSARY SERVICE PROVIDERS IF THE TENANT IS NOT DISABLED.

INTERESTED PARTIES ARE INVITED TO COMMENT ON THE PROPOSED AMENDMENTS TO THE CURRENT POLICY, LAST AMENDED DECEMBER 8, 2004. SPEAKERS WILL HAVE THREE (3) MINUTES EACH TO COMMENT ON THE POLICY. COMMENTS MAY ALSO BE MAILED AND SHOULD BE





**RECEIVED** AT THE RENT BOARD NO LATER THAN MAY 23, 2006, SO THAT THEY CAN BE MAILED AND RECEIVED BY THE COMMISSIONERS PRIOR TO THE HEARING. COMMENTS ARRIVING AFTER THIS TIME MAY NOT BE RECEIVED IN TIME TO BE ADEQUATELY CONSIDERED.

A COPY OF THE PROPOSED AMENDMENTS TO THE POLICY CAN BE OBTAINED AT THE RENT BOARD OFFICE, 25 VAN NESS, SUITE 320, OR ON THE RENT BOARD WEB SITE ([www.sfgov.org/rentboard](http://www.sfgov.org/rentboard)) UNDER BOARD MEETING AGENDAS, 2006."







## UNIFORM HOTEL VISITOR POLICY

**Proposed Amendments** (underline indicates new language; strike-through indicates deleted language)

1. No owner or operator of a single room occupancy hotel (SRO) shall deny a guest or occupant of the hotel the right as to:

A. Day Time Visitors

1. To receive visitors between 9:00 a.m. and 9:00 p.m. daily. A maximum of two (2) day time visitors at a time per room may be imposed by management. There is no limit on the total number of visitors a tenant may have per day, week or month.
2. Children 13 years old and under shall not be counted towards the visitor limitation rule. However, a maximum of two (2) children per room at a time can be imposed by management.

B. Overnight Guests

1. To have eight (8) overnight guests per month, limited to one visitor per tenant per night. Only tenants who have resided in their unit for thirty-two (32) continuous days or more shall be entitled to have overnight guests. Court-ordered custodial rights, which end at age seventeen (17), shall be honored for purposes of consecutive overnight stays but any such visits shall be counted toward the limitation on the number of overnight visitors.
2. For tenancies of two (2) persons per room, each tenant is permitted to have eight (8) overnight visitors per calendar month, but those tenants will have to reach agreement as to who will have the one (1) visitor per night if there is a dispute.
3. Tenants are entitled to have a visitor stay eight (8) days consecutively in a calendar month. Any visitor staying consecutive nights, as agreed upon, shall not be required to check in and out during the course of a consecutive stay. Otherwise, the visitor must check out by 11:00 a.m. or make arrangements with the desk to become a day time visitor.
4. Requests for overnight guests shall be made no later than 9:00 p.m. on the same day.

C. Caregivers of disabled tenants shall be exempt from visitor limitations. The owner or operator of the hotel may request medical verification or a caregiver I.D. card.

2. Owners and operators of SROs shall have the right to adopt reasonable rules and regulations to ensure that the visitor rights set forth above do not infringe on the health and safety of the building and/or otherwise interfere with the tenants' right of quiet enjoyment.



- A. Owners or operators are entitled to request that visitors provide identification as follows:
  - 1. Only ONE of the following types of I.D. need be provided: a valid and current passport, a California Department of Motor Vehicles (DMV) issued I.D., a Mexican Consular Registration Card or Resident Alien Card, merchant seaman I.D., a Day Labor Program I.D., Veteran's Administration I.D. or any valid California or out-of-state current government agency issued picture I.D.
  - 2. ~~Owners/managers can require that an I.D. be left with management during the visitor's stay, but they must provide a receipt if they do so.~~ Owners/managers cannot require that an I.D. be left with management during the visitor's stay. However, tenants must escort their visitors out of the building and make sure that they sign out. If a tenant's visitor does not sign out upon leaving, the tenant may lose their visitor privileges for thirty days, and this violation does not need to be put in writing.
  - 3. A log must be maintained by management and the visitor must sign in and sign out ~~when the~~ if an I.D. is surrendered and when it is returned.
  - 4. If the an I.D. is lost or misplaced and not returned within 12 hours of the visitor's request to have it returned, the owner/manager shall pay the visitor \$75.00 in cash immediately upon demand by the visitor as compensation for the loss and inconvenience of replacing the lost I.D.
- B. Owners and operators shall have the specific right to restrict visitors on two (2) of the three (3) actual check days of each month. Providers are required to post those blackout dates at least five (5) days prior to the first blackout date on a minimum size of 8-1/2" x 11", to be posted prominently by the entrance or in the lobby. Blackout dates shall not apply to children thirteen (13) years of age and under, custodial children or consecutive visitors.
- C. Owners and operators may deny visitor rights for 30 days to tenants who are repeat violators of hotel visiting rules. No penalty may be imposed until the second violation, and violations shall expire after 18 months. All notices of violation of the policy, including the first notice, must be in writing with a copy provided to the tenant. These limitations on the right to revoke visitor rights do not apply in the case of failing to ensure that a guest signs out upon leaving the building, as specified in Section 2A(2) above.
- D. Tenants who disagree with the imposition of a penalty may either:
  - 1. appeal to the operator or tenant representative (if one is present); or, in the alternative,



2. the tenant may go directly to the Rent Board for adjudication of their complaint.
  - E. Owners and operators shall also have the right to limit the number of nights any single visitor can make to the property to eight (8) per calendar month.
  - F. Tenants shall not be required to escort their visitors to the bathroom or other common areas of the building, except as specified in Section 2A(2) above. However, the tenant is responsible for the conduct of their unaccompanied visitor.
3. Nothing in this section shall interfere with the rights of owners and operators of SROs to exclude specific visitors who willfully or wantonly:
- A. disturb the peaceful enjoyment of the premises by other tenants and neighbors;
  - B. destroy, deface, damage, impair, or remove any part of the structure or dwelling unit, or the facilities or equipment used in common; or,
  - C. have committed repeated violations of the visitor policy which can be construed as creating a nuisance on the property; or constituting substantial interference with the comfort, safety or enjoyment of the landlord or tenants, which can be a just cause for eviction under the Rent Ordinance, as determined by the courts.
4. SRO owners or operators shall make available to their tenants a copy of any written Supplemental Visitor Policy that complies with this policy. SRO owners or operators are required to prominently post the Uniform Visitor Policy and any Supplemental Visitor Policy on a minimum size of 11" x 17" by the entrance or in the lobby.
5. Other than as a settlement of an unlawful detainer action, a tenant cannot waive the rights as outlined in this legislation. Any agreement between the SRO owner or operator and the tenant that reduces or limits the rights set forth in this legislation shall be deemed void and unenforceable.
6. Tenants are accorded certain and specific rights as a result of this legislation. If the SRO owner or operator violates this provision, a tenant will have legal recourse and will be encouraged to visit the San Francisco Rent Stabilization Board or the Police, as appropriate.
7. SRO owners or operators seeking a modification of the rights set forth above may file a petition with the San Francisco Rent Stabilization Board and receive a hearing on said petition. Notice of the time and date of said hearing shall be prominently



posted by the SRO owner or operator above the front desk of the hotel, in the lobby and at least five (5) copies shall be posted on each floor of the building.

8. The Rent Board shall translate the Uniform Visitor Policy into the predominant languages of the community and make them available as needed.







**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

Tuesday, 6:00 p.m.,  
May 30, 2006  
25 Van Ness Avenue, #70, Lower Level

**AGENDA**

LARRY BEACH BECKER  
DAVID GRUBER  
DEBORAH HENDERSON  
JIM HURLEY  
ANTHONY JUSTMAN  
CATHY MOSBRUCKER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

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NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 1616 Taylor #7 AT060048

The tenant in one unit appeals the decision granting a utility passthrough.

B. 750 Gonzalez Dr. #3G AT060049

The tenant in one unit appeals the decision granting certification of capital improvement costs.

C. 1749 Polk #7 AT060050 thru -52

The tenant in one unit appeals three separate decisions granting capital improvement passthroughs.

- VI. Public Hearing

6:00 SRO Hotel Visitor Policy

- VII. Communications





VIII. Director's Report

IX. Old Business

IV. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

X. New Business

XI. Calendar Items

XII. Adjournment





## ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4603 at least 72 hours prior to the meeting. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4603 to place your specific request. Late requests will be honored if possible.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4603。

Se pueden obtener servicios de traduccion, ampliacion de sonida, u otras formas de presentacion si se solicitan por lo menos 72 horas antes de la reunion. Llame al 252-4603 para hacer su solicitud.

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals.

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. All MUNI Metro lines at Van Ness and Market Street are accessible. For other accessible MUNI lines serving this location and information about MUNI accessible services, call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

## Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Timothy Lee has been designated to coordinate this agency's compliance with the nondiscrimination requirements of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided under the Act, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845.

## Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlet Place, Room 244, San Francisco, CA 94102 at 554-7724.





GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

**MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

SHARON K. WASSERMAN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

Tuesday, May 30, 2006 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level DOCUMENTS DEPT.

JUN 16 2006

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LARRY BEACH BECKER

DAVID GRUBER

DEBORAH HENDERSON I. Call to Order

JIM HURLEY

ANTHONY JUSTMAN

CATHY MOSBRUCKER

NEVEO MOSSER

BARTHOLOMEW MURPHY II. Roll Call

President Wasserman called the meeting to order at 6:15 p.m.

Commissioners Present:

Becker; Gruber; Henderson; Hurley;  
Marshall; Mosbrucker; Mosser;  
Wasserman.

Staff Present:

Lee; Wolf.

Commissioner Justman appeared on the record at 6:20 p.m.; Commissioner  
Murphy arrived at the meeting at 6:35 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of May 16, 2006.  
(Becker/Gruber: 5-0)

IV. Remarks from the Public

A. SRO Hotel tenant Raymond Smith told the Board that his hotel's policy  
regarding smoking doesn't adequately deal with the effects of second-hand  
smoke. He asked that a hearing be convened to address this issue.

B. SRO Hotel tenant John Michael Orchard told the Board that he is a San  
Francisco native who has lived in many hotels. Mr. Orchard respects the City  
and noted that his father was a politician.

V. Consideration of Appeals

A. 1616 Taylor #7

AT060048





The landlord's petition for approval of a utility passthrough in the amount of \$33.39 per month was granted. The tenant in one unit appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Marshall: 5-0)

B. 750 Gonzalez #3G

AT060049

The landlord's petition for certification of capital improvement costs was granted, resulting in a monthly passthrough in the amount of \$9.33. One tenant and her daughter appeal the decision on the grounds of financial hardship.

MSC: To recuse Commissioner Becker from consideration of this appeal. (Gruber/Justman: 5-0)

MSC: To accept the appeal and remand the case for a hearing on the tenants' claim of financial hardship. (Marshall/Henderson: 5-0)

C. 1749 Polk #7

AT060050 thru -52

The landlord filed three separate petitions for certification of capital improvement costs, which were granted pursuant to Minute Orders. One tenant appeals on the grounds of financial hardship.

MSC: To accept the appeals and remand the cases for a hearing on the tenant's claim of financial hardship.  
(Henderson/Marshall: 5-0)

#### VI. Public Hearing

6:00 SRO Hotel Visitor Policy

The Board convened a second Public Hearing on proposed amendments to the SRO Hotel Visitor Policy at 6:23 p.m. Fifteen individuals testified as follows below:

1. Tenant Bruce Allison of the Isabel Hotel said that there were no blackout dates or problems with check dates at his hotel. Nor were there problems with escorting guests out of the building. Mr. Allison suggested setting up an Ombudsman Program like they have at hospitals.

2. Tenant Aurora Grajeda has lived at the Mission Hotel since 2001. Ms. Grajeda said that treating tenants like they're children becomes a "self-fulfilling



prophecy.” She believes that “there is still work to be done, but things have been working very well.” Ms. Grajeda wants “cleanliness and dignity, like people have in their homes.”

3. Tenant Isaac Jackson said that Rapid Transit Cards (RTC) for disabled persons should be added to the list of acceptable IDs.

4. Tenant Miles Kraus wants hotel operators to be able to retain IDs, as he believes that it is better for security. Mr. Kraus believes that this is the only way to track down who's in the building.

5. Brian Quinn, Manager of the Aranda Hotel, told the Board that the tenants in his building thought that IDs should be kept at the front desk as an incentive for visitors to check out. Mr. Quinn said that it is punitive to have to check people out or lose one's visitor rights for thirty days, since a guest could leave without the tenant knowing.

6. Tenant Raymond Smith of the Knox Hotel said that RTC and disabled veteran ID cards should be added to the list of acceptable IDs. Mr. Smith said there is a problem regarding proof of bona fide caregivers. His hotel has a good policy of calling a tenant on the phone to verify that they'd like to receive the visitor.

7. Tenant Deforest Woods of the Windsor Hotel agreed regarding the suggested forms of additional ID. Mr. Woods said that he has had his visitor rights taken away for six months at a time, and that it is a nuisance to have to get one's ID back.

8. Tenant Steve Rodriguez of the Post Hotel said that losing visitor rights for thirty days is a bit harsh, and the rules are not posted in the hotels. Hotel staff rotate frequently and don't give out receipts, but just give the ID back. There is no one at the desk when Mr. Rodriguez leaves for work in the morning, which is a problem.

9. Tony Robles of the Mission SRO Collaborative said that tenants shouldn't lose their visitor privileges for thirty days until the second infraction and that any exclusion of visitors should be accompanied by written notice.

10. Tenants Joseph and Jean of the Pier Hotel said that 30 days is too long to lose visitor rights, and that there should be the same type of penalty for failing to sign a visitor out as with any other infraction. They believe that managers should have to provide a written explanation for 86ing a visitor and that owners and managers should distribute the Visitor Policy to all tenants.



11. Tenant Jonathan Betts of the Aranda Hotel expressed his view that hotels shouldn't hold IDs at all, but could issue a claim check. Mr. Betts said that there is a policy where no hotel will take a tenant for seven years after having been 86ed. Mr. Betts said that "everyone's not equally responsible and it won't help to add further complications."

12. Luis Barahona of the Central City SRO Collaborative said that the issue of retention of IDs is "contentious," even among tenants. IDs get lost, and hotel management isn't willing to provide a receipt, let alone compensation. The Tenderloin Housing Clinic doesn't hold IDs at their hotels, and use a log instead. Mr. Barahona said that 86ing is currently based on favoritism.

13. Dwight Saunders of the Central City SRO Collaborative applauded the Board's efforts, saying that these issues are "paramount in this community." Mr. Saunders believes that, over time, the Board will overturn these "discriminatory restrictions" that are in place just because people are poor.

14. Tenant Andrew Hart of the Alder Hotel said that residential hotels are a good alternative for those who are low-income. He says, however, that he "has a life" after 9:00 and resents having to "check in with mom," since tenants in regular hotels and apartment buildings don't have to go through it.

15. Tenant Allen White thanked the Executive Director and told the Board that the Visitor Policy isn't uniform. Mr. White believes that these are not just hotel rooms, but are peoples' homes. He contends that SRO tenants are being robbed of their dignity, and that their Constitutional rights are being violated. Mr. White pointed out that the document doesn't even call for the policy to be distributed, and tenants don't know how it is enforced.

The Public Hearing ended at 7:00 p.m., at which time the Board discussed the public comments and proposed amendments. Several of the Commissioners were concerned that a loss of visitor rights for 30 days due to a guest's failure to sign out with no written notice constituted a denial of due process; likewise, they felt that the hotel operator should be given a specific period of time to enforce this penalty. The Commissioners also felt that written notice should be provided when someone is 86ed from a hotel. The following additional amendments were suggested (new language underlined; strike-through indicates deleted language):

§2A(2) Owners/managers cannot require that an I.D. be left with management during the visitor's stay. However, if an I.D. is not left with management, tenants must escort their visitors out of the building and make sure that they sign out. If a tenant's visitor does not sign out upon leaving, the tenant may lose their visitor privileges for thirty days, ~~and this~~



~~violation does not need to be put in writing~~ which must be put in writing within seven days.

§2A(3) A log must be maintained by management and the visitor must sign in and sign out. ~~if an I.D. is surrendered and when it is returned.~~  
The log shall indicate when an I.D. is surrendered and when it is returned.

§3D (new Section) Any time a visitor is excluded from the hotel, notice must be put in writing after the fact with the person's name and the reason for the exclusion.

Since the above changes constitute deviations from agreements reached by the Committee formed to recommend amendments to the Policy, it was agreed that the Executive Director would contact landlord representatives Sam Patel and Henry Karnilowicz. Ms. Wolf will explain that the above represents a consensus of the Board, but that the Commissioners are very interested in input from Mr. Patel and Mr. Karnilowicz prior to the June 20<sup>th</sup> Board meeting, at which time the Board will finalize amendments to the Uniform Visitor Policy.

#### VII. Communications

The Commissioners received the following communications:

- A. Two articles from BeyondChron.
- B. The office workload statistics for the month of April.

#### VIII. Director's Report

Executive Director Wolf informed the Board as follows:

- A. On May 24<sup>th</sup>, the Land Use Committee of the Board of Supervisors voted to send legislation sponsored by Supervisor Mirkarimi to the full Board with a recommendation to approve the amendment. If enacted, the amendment would require a landlord to have a Just Cause under the Ordinance in order to sever or remove a tenant's garage or parking facilities, storage, or access to common areas or other physical spaces or facilities on the lot.
- B. The departmental budget will go before the Board of Supervisor's Budget and Finance Committee for final approval on June 7<sup>th</sup>. There were no problems at the First Hearing on May 24<sup>th</sup>.





C. Sadly, prior Tenant Commissioner Frederick Hobson has passed away. Supervisor Daly will be honoring Mr. Hobson at a future Board of Supervisor's meeting.

IX. Calendar Items

June 6<sup>th</sup> & 13<sup>th</sup>, 2006 - NO MEETINGS

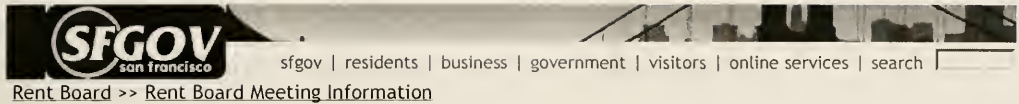
June 20, 2006

6:30 6 appeal considerations  
Old Business: SRO Hotel Visitor Policy

XII. Adjournment

President Wasserman adjourned the meeting at 7:55 p.m.





City of San Francisco  
**The Rent Board**

June 20, 2006

**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

Tuesday, **6:30 p.m.**,

June 20, 2006

25 Van Ness Avenue, #70, Lower Level

**AGENDA**

I. Call to Order

II. Roll Call

III. Approval of the Minutes

IV. Remarks from the Public

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**NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

V. Consideration of Appeals

A. 810 Gonzalez #7J AT060054

The tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.

B. 1000 Chesnut #2F AT060057

The tenant appeals the remand decision denying her appeal based on financial hardship.

C. 1805 Cabrillo AL060053

The landlord appeals the decision determining that the tenant is a "Tenant in Occupancy" pursuant to Rules Section 1.21.



D. 46 Sumner AL060055

The landlord appeals the remand decision granting claims of decreased housing services.

E. 4076 - 17<sup>th</sup> St. #505 AL060056

The landlord appeals the decision granting a rent reduction due to the unit's being significantly smaller than was represented by the landlord's agent.

F. 275 Turk St. #209 AT060058

The tenant appeals the decision denying a claim of decreased housing services pursuant to the Golden Gateway decision.

VI. Communications

VII. Director's Report

VIII. Old Business

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

IX. New Business

X. Calendar Items

XI. Adjournment





GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

**MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

SHARON K. WASSERMAN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

Tuesday, June 20, 2006 at 6:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

LARRY BEACH BECKER

DAVID GRUBER

DEBORAH HENDERSON

JIM HURLEY

ANTHONY JUSTMAN

CATHY MOSBRUCKER

NEVEO MOSSER

BARTHOLOMEW MURPHY

I. Call to Order

President Wasserman called the meeting to order at 6:37 p.m.

II. Roll Call

Commissioners Present: Becker; Gruber; Henderson; Mosbrucker;  
Wasserman.

Commissioners not Present: Hurley; Marshall; Mosser; Murphy.

Staff Present: Lee; Wolf.

Commissioner Justman appeared on the record at 6:45 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of May 30, 2006.  
(Gruber/Mosbrucker: 4-0)

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IV. Remarks from the Public

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A. Samuel Lutz, Attorney for the tenants at 46 Sumner (AL060055), told the Board that the landlord's bias claim against the Administrative Law Judge (ALJ) didn't rise to the necessary level, and that the proceedings were fair. Mr. Lutz said that the ALJ ruled against the tenants as well as the landlord, and that many of their objections were over-ruled. Mr. Lutz maintained that the landlord was simply asking for a "third bite of the apple."

B. Andre Sanchez, Attorney for the landlord at 209 Turk St. #209 (AT060058), said that the tenant's basis for appeal was that he didn't have an attorney at the hearing, whereas the Notice of Hearing clearly says that a party can be represented. Mr. Sanchez told the Board that the ALJ didn't not commit an error or abuse of discretion.







C. Brian Cook, agent for the landlord at 46 Sumner, expressed his opinion that the apartment is "show-room quality."

V. Consideration of Appeals

A. 810 Gonzalez #7J

AT060054

The tenant's financial hardship appeal was filed over three and one-half years late because the tenant did not know that she could still file the appeal, and did not have time to file at the time the decision was issued.

MSC: To recuse Commissioner Becker from consideration of this appeal. (Wasserman/Justman: 4-0)

MSC: To find no good cause for the late filing of the appeal. The Decision is therefore final. (Gruber/Justman: 3-1; Henderson dissenting)

B. 1000 Chesnut #2F

AT060057

The tenant's hardship appeal of a \$77.16 capital improvement passthrough was accepted and remanded for hearing. However, the Administrative Law Judge found insufficient evidence of financial hardship to justify deferral of the passthrough since the tenant's income to rent ratio exceeded the HUD guidelines at the time of initial occupancy, and the tenant is underemployed. The tenant appeals the remand decision, claiming that the ALJ failed to follow the Board's "unambiguous criteria" for determining financial hardship.

MSF: To deny the appeal. (Gruber/Justman: 2-2; Becker, Mosbrucker dissenting)

This case was continued to the July 11<sup>th</sup> Board meeting, when it is anticipated that another Landlord Commissioner will be present.

C. 1805 Cabrillo

AL060053

The landlord's petition seeking a determination pursuant to Rules Sections 1.21 and 6.14 was denied because the Administrative Law Judge found that the subject unit is still the tenant's principal place of residence, despite the fact that his wife has moved in to a home the tenants purchased in Oregon. On appeal, the landlord claims that the ALJ misconstrued Rules Section 1.21 subsections (5) and (6) as amended for clarification on December 3, 2002.

This appeal was withdrawn just before the start of the meeting.



D. 46 Sumner

AL060055

The tenants' petition alleging decreased housing services was granted, in part, and the landlords were found liable in the amount of \$1,545.00. The tenants' appeal on the grounds that the rent reductions should have commenced from an earlier date was accepted and remanded for a new hearing. In the Decision on Remand, the landlords are found liable in the amount of \$5,604.30 for the habitability defects. The landlord appeals the remand decision, arguing that: the Administrative Law Judge only considered the tenants' issues raised on appeal, despite the fact that it was a de novo hearing; deeming the rent reductions to commence as of July 11, 2004 is unfair; the Decision is incorrect as to the dates he received verifiable notice of the conditions; rent reductions were granted for periods after the conditions were abated; the rent reductions granted are excessive; several of the problems were not substantial; and two of the problems only occurred when it rained.

MSC: To deny the appeal. (Becker/Mosbrucker: 3-1;  
Gruber dissenting)

E. 4076 – 17<sup>th</sup> St. #505

AL060056

The tenant's petition alleging a substantial decrease in housing services due to the unit's being significantly smaller than was represented by the landlord's agent was granted, and the landlord was found liable to the tenant in the amount of \$200.00 per month. On appeal, the landlord maintains that: the size of the apartment does not constitute a "housing service;" the reduction in size is not substantial; since the tenant saw and measured the apartment prior to renting it, it was not reasonable to expect that it would be larger; the tenant failed to prove that he was promised a larger unit; the landlord was prejudiced at the hearing by not being granted a continuance in order to have his attorney present; the tapes secretly recorded by the tenant constituted hearsay and should not have been allowed into evidence as they were not authenticated; and the landlord's agent should be found more credible than the tenant in this matter.

MSC: To accept the appeal and remand the case on the record to the Administrative Law Judge to vacate the Decision and find, under these facts, that there is not a substantial decrease in housing services. (Gruber/Justman: 3-1; Becker dissenting)

F. 275 Turk St. #209

AT060058

The tenant's petition alleging a substantial decrease in services due to seismic retrofit work in the building was denied pursuant to the decision in Golden Gateway Center v. Rent Board. The tenant appeals, claiming that there was a



reduction in services, that the conditions were unhealthy, and that the landlord should have relocated him.

MSC: To deny the appeal. (Gruber/Mosbrucker: 4-0)

#### VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. An article from BeyondChron regarding the Proposed Mirkarimi legislation.

B. Copies of the court decisions in the cases of Cumali v. Rent Board and Garber v. Jones.

C. An updated list of Rent Ordinance amendments.

D. A new staff roster.

E. Copies of Proposition B regarding eviction disclosure, the Mirkarimi legislation regarding Just Cause for removal of housing services, Ordinance 73-06 requiring mail receptacles in residential hotels, and Ordinance 112-06, limiting condo conversions in buildings where evictions have occurred.

#### VII. Director's Report

Executive Director Wolf informed the Board that the agency is experiencing a large increase in the number of utility passthrough petitions filed by landlords. Senior Administrative Law Judge Tim Lee gave the following litigation and legislation update:

A. In Cumali v. Rent Board, the Court of Appeal affirmed the trial court's ruling that the landlord did not have standing to challenge the facial constitutionality of Rules Section 12.15, which requires a landlord to file a petition for extension of time if the landlord knows that capital improvement work will require displacement of the tenant for more than 90 days. This Decision is now final, as no Petition for Review was filed.

B. Proposition B, approved by the voters on the June ballot, added Section 37.10A(i) to the Rent Ordinance. The new Section requires owners of properties with two or more residential units to disclose to any prospective purchaser the legal grounds for terminating the tenancy of each unit to be delivered vacant upon sale and whether the unit was occupied by an elderly or disabled tenant at



the time the tenancy was terminated. Proposition B will take effect ten days after the Board of Supervisors certifies the election results.

C. Ordinance 73-06 requires residential hotel owners to provide Postal Service-approved mail receptacles for each residential unit within one year of the effective date of the Ordinance, or by May 20, 2007. The Ordinance also amended Rent Ordinance Section 37.14 to allow a former or current permanent resident of a residential hotel to file a tenant petition at the Rent Board for violation of the mailbox ordinance and request a corresponding reduction in rent.

D. On May 22, 2006, the Mayor signed Ordinance 112-06, which limits condo conversions of properties where tenants in two or more units, or an elderly or disabled tenant in one unit, have been evicted for specified no-fault evictions since May 1, 2005. The Ordinance is effective June 21, 2006.

E. The Pieri Decision extending Ellis relocation payments to all tenants is now final, as no Petition for Review was filed.

F. The Mirkarimi legislation, which would require a landlord to have a Just Cause under the Ordinance in order to sever or remove a tenant's garage or parking facilities, storage or access to common areas or other physical spaces or facilities on the lot, passed First Reading at the Board of Supervisors for the third time this afternoon, on a 7-3 vote.

G. The Writ in the case of Brown v. Rent Board is now being pursued by the tenant, because the landlord is now seeking to collect the Costa-Hawkins rent increase granted pursuant to the Decision of the Administrative Law Judge.

H. On June 13, 2006 the appellate department issued a decision in Garber v. Jones, finding that Proposition G superseded the Bierman amendment as to the required percentage ownership for an owner move-in eviction under Ordinance Section 37.9(a)(8). The court found that since the two provisions conflict, and Proposition G was passed later in time, Proposition G's 25% ownership requirement prevails over the 50% ownership required by the previously enacted Bierman amendment. The appellate department has certified the case for transfer to the Court of Appeal in order to settle the question of law involved.

#### IV. Remarks from the Public (cont.)

D. Tenant Otis Damslett of 4076 – 17<sup>th</sup> St. #505 (AL060056) asked the Board for guidance as to what additional facts they would need to believe that there was a decrease in services in his case. He also told the Board that he didn't move after realizing that the apartment was significantly smaller than he'd





expected because he had incurred significant moving expenses. He also said that it is not possible to determine the square footage of a unit just by looking.

VIII. Calendar Items

June 6<sup>th</sup> & 13<sup>th</sup>, 2006 - NO MEETINGS

July 11, 2006

7 appeal considerations (1 cont. from 6/20/06)

Old Business: SRO Hotel Visitor Policy

IX. Adjournment

President Wasserman adjourned the meeting at 7:55 p.m.





**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

Tuesday, 6:30 p.m.,  
July 11, 2006  
25 Van Ness Avenue, #70, Lower Level

**AGENDA**

LARRY BEACH BECKER

DAVID GRUBER

DEBORAH HENDERSON

JIM HURLEY

ANTHONY JUSTMAN

CATHY MOSBRUCKER

NEVEO MOSSER

BARTHOLOMEW MURPHY

I. Call to Order

II. Roll Call

III. Approval of the Minutes

IV. Remarks from the Public

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

V. Consideration of Appeals

A. 1000 Chesnut #2F

AT060057

The tenant appeals the remand decision denying her appeal based on financial hardship.

B. 1880 Pacific #403

AT060661

The tenant appeals the determination that he is not a "Tenant in Occupancy" pursuant to Rules Section 1.21.

C. 1850 Clay #103

AL060059

The landlord appeals the decision finding that no rent increase is authorized pursuant to Costa-Hawkins.

D. 1040 Ashbury #8

AL060060

The landlord appeals the decision granting a claim of unlawful rent increases, arguing that a new owner cannot be held liable for rent overpayments made to a prior owner.





E. 1101-1123 Fillmore

AL060062

The landlords appeal the denial of a petition for substantial rehabilitation exemption from the Ordinance.

F. 146 Hearst Ave.

AL060063

The landlord appeals the decision granting a claim of decreased housing services due to a lack of heat in the unit.

G. 3515 – 25<sup>th</sup> St., No. 205

AL060064

The landlord appeals the decision finding that no rent increase is authorized by Costa-Hawkins and that a 6.14 notice was not timely served.

VI. Communications

VII. Director's Report

VIII. Old Business

SRO Hotel Visitor Policy

IV. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

IX. New Business

X. Calendar Items

XI. Adjournment





## ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4603 at least 72 hours prior to the meeting. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4603 to place your specific request. Late requests will be honored if possible.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4603。

Se pueden obtener servicios de traduccion, ampliacion de sonida, u otras formas de presentacion si se solicitan por lo menos 72 horas antes de la reunion. Llame al 252-4603 para hacer su solicitud.

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals.

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. All MUNI Metro lines at Van Ness and Market Street are accessible. For other accessible MUNI lines serving this location and information about MUNI accessible services, call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

## Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Timothy Lee has been designated to coordinate this agency's compliance with the nondiscrimination requirements of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided under the Act, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845.

## Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlet Place, Room 244, San Francisco, CA 94102 at 554-7724.







GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

SHARON K. WASSERMAN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

Tuesday, July 11, 2006 at 6:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT.

JUL 20 2006

SAN FRANCISCO  
PUBLIC LIBRARY

LARRY BEACH BECKER  
DAVID GRUBER  
DEBORAH HENDERSON  
JIM HURLEY  
ANTHONY JUSTMAN  
CATHY MOSBRUCKER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

I. Call to Order

President Wasserman called the meeting to order at 6:35 p.m.

II. Roll Call

Commissioners Present: Becker; Gruber; Hurley; Justman; Mosser;  
Murphy; Wasserman.  
Commissioners not Present: Henderson.  
Staff Present: Gartzman; Lee.

Commissioner Mosbrucker appeared on the record at 6:36 p.m.  
Commissioner Marshall appeared on the record at 6:46 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of June 20, 2006.  
(Gruber/Becker: 5-0)

IV. Remarks from the Public

A. Steve Williams of Wiegel and Fried, attorney for the landlord at 1040 Ashbury Street (AL060060), told the Board that he disagreed with the ALJ's Memorandum in response to the landlord's appeal because he believes that the obligation and agreement to pay rent is a covenant that runs with the land and is covered by Civil Code Section 1466. He also said that in the case of Larsen v. San Francisco Residential Rent Stabilization and Arbitration Board, the San Francisco Superior Court already decided the issue of successor liability under the Rent Ordinance and that collateral estoppel should apply. He stated that California Rule of Court 977 does not prevent the Rent Board's review of the unpublished Larsen decision. Mr. Williams asked the Board to consider his client's appeal first since he had brought a court reporter to the Board meeting.





B. Michael Rossoff, attorney for the landlord at 1880 Pacific Avenue, agreed that the appeal involving 1040 Ashbury Street should be considered first because there was a court reporter present for that case.

V. Consideration of Appeals

A. 1000 Chestnut #2F

AT060057

(cont. from 6/20/06)

The tenant's hardship appeal of a \$77.16 capital improvement passthrough was accepted and remanded for hearing. However, the Administrative Law Judge (ALJ) found insufficient evidence of financial hardship to justify deferral of the passthrough since the tenant's income to rent ratio exceeded the HUD guidelines at the time of initial occupancy, and the tenant is underemployed. The tenant appeals the remand decision, claiming that the ALJ failed to follow the Board's "unambiguous criteria" for determining financial hardship. Due to the lack of a second voting Landlord Commissioner, this appeal was continued from the June 20<sup>th</sup> Board meeting.

MSC: To recuse Commissioner Murphy from consideration of this appeal. (Approved by acclamation.)

MSC: To deny the appeal. (Gruber/Hurley: 4-1; Becker dissenting)

B. 1880 Pacific #403

AT060061

The landlord's petition seeking a determination pursuant to Rules Section 1.21 was granted, and the Administrative Law Judge (ALJ) found that the subject unit is not the tenant's principal place of residence. The tenant appeals, claiming that: the ALJ's findings and conclusions are not supported by the evidence; several of the indicia of residency enumerated in Rules Section 1.21 show that the tenant resided at the subject unit at the time the petition was filed, although he may have resided elsewhere from 1998-2004; the tenant timely filed a California tax return in 2005; the subject unit is the tenant's usual place of return; and the Decision ignores evidence favorable to the tenant.

MSC: To deny the appeal. (Gruber/Murphy: 3-2; Becker, Marshall dissenting)

C. 1850 Clay #103

AL060059

The tenant's petition alleging an unlawful rent increase from \$981.22 to \$1,895.00 was granted because the Administrative Law Judge (ALJ) found that the petitioner was a tenant and not a subtenant, and therefore no rent increase



was authorized by Costa-Hawkins. The landlord appeals the decision on the grounds that: Costa-Hawkins fully occupies the field and the Rent Board does not have jurisdiction over this dispute; the ALJ erred in ruling that the prior landlord entered into a tenancy agreement with the petitioner; the case of Cobb v. San Francisco is distinguishable from the instant case; the original tenant has never surrendered his interest in the unit; and the landlord did not waive its rights to a rent increase because it did not receive written notice of the petitioner's presence in the unit and thereafter accept rent.

MSC: To deny the appeal. (Marshall/Becker: 5-0)

D. 1040 Ashbury #8

AL060060

The tenant's petition alleging unlawful rent increases was granted and the landlords were found liable to the tenant in the amount of \$41,414.10. On appeal, the landlords argue that: the new owner cannot be held liable for rent overpayments made to a prior owner; the Decision conflicts with the Superior Court decision in the case of Larsen v. Rent Board; the Decision is unfair and unjust; and the tenant has a remedy against the prior owner.

MSC: To deny the appeal. (Becker/Mosbrucker: 3-2; Gruber, Murphy dissenting)

E. 1101-1123 Fillmore/1300 Golden Gate

AL060062

The landlords' petition for exemption from the Ordinance based on certification of substantial rehabilitation was denied because the Administrative Law Judge (ALJ) found that the landlords failed to provide a detailed description of the work performed, failed to provide proof of costs or proof of payment for any of the costs associated with the project, and did not comply with several other requirements enumerated in Rules Section 8.12. The landlord appeals, arguing that: it was not possible to assemble the required documentation because the rehabilitation work was done over twenty years ago, and plausible substitutes were provided; reasonable inferences that could be drawn were rejected by the ALJ; the failure of the Rent Board to send the case to an independent estimator is evidence that the case was pre-judged; and the landlord asks for another opportunity to obtain the necessary documentation.

MSC: To deny the appeal. (Becker/Marshall: 3-2; Gruber, Murphy dissenting)



F. 146 Hearst Ave.

AL060063

The tenant's petition alleging decreased housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$5,000 due to lack of heat in the unit. On appeal, the landlord claims under penalty of perjury not to have received notice of the hearing, and also maintains that there has been no decrease in services, because heat has always been provided to the tenant by the landlord.

MSC: To remand the case for a new hearing, based on the landlord's declaration of non-receipt of notice. The reduced base rent shall remain in effect until and unless a different base rent is established by the Board. (Becker/Gruber: 5-0)

G. 3515 – 25<sup>th</sup> St., No. 205

AL060064

The tenant's petition alleging an unlawful rent increase from \$905.86 to \$2,500.00 was granted because the Administrative Law Judge (ALJ) found that the petitioner was a tenant and not a subtenant, and therefore no rent increase was authorized by Costa-Hawkins, and that a 6.14 notice had not been timely served. The landlord appeals, arguing that: the tenant failed to prove that she was a tenant prior to service of the 6.14 notice; the landlord's evidence was not considered in the Decision, which is based solely upon inadmissible hearsay; the petitioner is an assignee, and not a tenant; the landlord did not waive his right to a rent increase because he did not receive written notice of the petitioner's presence in the unit and thereafter accept rent; and the 6.14 notice was timely.

MSC: To recuse Commissioner Murphy from consideration of this appeal. (Approved by acclamation.)

MSC: To deny the appeal. (Becker/Marshall: 5-0)

## VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communication:

A. The office workload statistics for the month of May.

## VII. Director's Report

Senior Administrative Law Judge Tim Lee gave the following legislation and litigation update:





A. The Mirkarimi legislation, which requires a landlord to have a just cause reason to sever, reduce or remove specified housing services, including parking, storage, laundry rooms, decks or gardens, will become law without the mayor's signature on August 8, 2006.

B. In Brown v. Rent Board, the Superior Court found that acceptance of rent from the master tenant is sufficient to establish a waiver under Civil Code Section 1954.53(d)(4), and remanded the case to the Board to determine if the landlord received sufficient notice that the master tenant no longer permanently resided in the unit so the landlord could have imposed an unlimited rent increase under Costa-Hawkins.

C. In Golden Gateway Center v. Rent Board, the owner is seeking a writ ordering the Board to hold full oral hearings on twenty utility passthrough petitions that were untimely filed in 2006 rather than dismiss the petitions without a hearing. The hearing on the owner's writ is set for July 12, 2006.

D. In M-J SF Investments, LLC v. CCSE, in addition to seeking to overturn the City's denial of the owner's condominium application for 901 Bush Street, the owner claims that Rent Board Regulation 12.19 is preempted by state law, specifically, the Costa-Hawkins Rental Housing Act. Regulation 12.19 gives tenants displaced by a natural disaster the right to return to the units when repairs have been made. A hearing on the owner's motion for judgment on the pleadings is set for July 31, 2006.

#### VIII. Old Business

##### SRO Hotel Visitor Policy

Two Public Hearings were held on proposed amendments to the Hotel Visitor Policy, the first on January 17, 2006 and the second on May 30, 2006. After the first Public Hearing, the Board asked that the Executive Director convene a Committee of tenant and landlord representatives to discuss the issues raised and find points of agreement, which were brought back to the Board for their approval on May 30<sup>th</sup>. At that time, the Commissioners felt that certain additional changes were warranted, specifically: that a loss of visitor rights for 30 days due to a guest's failure to sign out should only occur after the tenant is given written notice of the violation within seven days; and that written notice should be provided when someone is 86ed from a hotel. The Commissioners suggested additional language to reflect these changes. Since these additional changes constituted deviations from agreements reached by the Committee, and favored tenants, it was agreed that the Executive Director would contact landlord representatives Sam Patel and Henry Karnilowicz and get their input. Ms. Wolf



did so, and both Mr. Patel and Mr. Karnilowicz indicated that they had no major objections to the additional changes, and considered them "minor." Prior to the July 11<sup>th</sup> meeting, a residential hotel manager contacted the Executive Director to ask for clarification of proposed new section 3D which provided, "Any time a visitor is excluded from the hotel, notice must be put in writing after the fact with the person's name and the reason for the exclusion." Specifically, he asked that the policy specify who should be given the notice. The Commissioners agreed that written notice should be provided to the tenant and made the following additional amendments to Section 3D (new language underlined; strike-through indicates deleted language):

§3D Any time a tenant's visitor is excluded from the hotel, written notice must ~~be put in writing~~ delivered to the tenant after the fact with the ~~person's~~ visitor's name and the reason for the exclusion.

The Board then passed the following motion:

MSC: To approve the proposed amendments to the Uniform Hotel Visitor Policy. (Gruber/Becker: 5-0)

The Policy will now be translated by the Rent Board from English into six languages, including Cantonese, Spanish, Tagalog, Vietnamese, Hindi and Gujarati, and will be made available to the public. The new, amended policy now reads as follows:

### **UNIFORM HOTEL VISITOR POLICY**

As amended July 11, 2006

1. No owner or operator of a single room occupancy hotel (SRO) shall deny a guest or occupant of the hotel the right as to:
  - A. Day Time Visitors
    1. To receive visitors between 9:00 a.m. and 9:00 p.m. daily. A maximum of two (2) day time visitors at a time per room may be imposed by management. There is no limit on the total number of visitors a tenant may have per day, week or month.
    2. Children 13 years old and under shall not be counted towards the visitor limitation rule. However, a maximum of two (2) children per room at a time can be imposed by management.
  - B. Overnight Guests
    1. To have eight (8) overnight guests per month, limited to one visitor per tenant per night. Only tenants who have resided in their unit for thirty-two (32) continuous days or more shall be entitled to have overnight guests. Court-ordered custodial rights, which end at age



- seventeen (17), shall be honored for purposes of consecutive overnight stays but any such visits shall be counted toward the limitation on the number of overnight visitors.
  2. For tenancies of two (2) persons per room, each tenant is permitted to have eight (8) overnight visitors per calendar month, but those tenants will have to reach agreement as to who will have the one (1) visitor per night if there is a dispute.
  3. Tenants are entitled to have a visitor stay eight (8) days consecutively in a calendar month. Any visitor staying consecutive nights, as agreed upon, shall not be required to check in and out during the course of a consecutive stay. Otherwise, the visitor must check out by 11:00 a.m. or make arrangements with the desk to become a day time visitor.
  4. Requests for overnight guests shall be made no later than 9:00 p.m. on the same day.
  - C. Caregivers of disabled tenants shall be exempt from visitor limitations. The owner or operator of the hotel may request medical verification or a caregiver I.D. card.
2. Owners and operators of SROs shall have the right to adopt reasonable rules and regulations to ensure that the visitor rights set forth above do not infringe on the health and safety of the building and/or otherwise interfere with the tenants' right of quiet enjoyment.
- A. Owners or operators are entitled to request that visitors provide identification as follows:
    1. Only ONE of the following types of I.D. need be provided: a valid and current passport, a California Department of Motor Vehicles (DMV) issued I.D., a Mexican Consular Registration Card or Resident Alien Card, merchant seaman I.D., a Day Labor Program I.D., Veteran's Administration I.D. or any valid California or out-of-state current government agency issued picture I.D.
    2. Owners/managers cannot require that an I.D. be left with management during the visitor's stay. If an I.D. is not left with management, tenants must escort their visitors out of the building and make sure that they sign out. If a tenant's visitor does not sign out upon leaving, the tenant may lose their visitor privileges for thirty days, which must be put in writing within seven days.
    3. A log must be maintained by management and the visitor must sign in and sign out. The log shall indicate when an I.D. is surrendered and when it is returned.
    4. If an I.D. is lost or misplaced and not returned within 12 hours of the visitor's request to have it returned, the owner/manager shall pay the visitor \$75.00 in cash immediately upon demand by the visitor



as compensation for the loss and inconvenience of replacing the lost I.D.

- B. Owners and operators shall have the specific right to restrict visitors on two (2) of the three (3) actual check days of each month. Providers are required to post those blackout dates at least five (5) days prior to the first blackout date on a minimum size of 8-1/2" x 11", to be posted prominently by the entrance or in the lobby. Blackout dates shall not apply to children thirteen (13) years of age and under, custodial children or consecutive visitors.
  - C. Owners and operators may deny visitor rights for 30 days to tenants who are repeat violators of hotel visiting rules. No penalty may be imposed until the second violation, and violations shall expire after 18 months. All notices of violation of the policy, including the first notice, must be in writing with a copy provided to the tenant. These limitations on the right to revoke visitor rights do not apply in the case of failing to ensure that a guest signs out upon leaving the building, as specified in Section 2A(2) above.
  - D. Tenants who disagree with the imposition of a penalty may either:
    - 1. appeal to the operator or tenant representative (if one is present); or, in the alternative,
    - 2. the tenant may go directly to the Rent Board for adjudication of their complaint.
  - E. Owners and operators shall also have the right to limit the number of nights any single visitor can make to the property to eight (8) per calendar month.
  - F. Tenants shall not be required to escort their visitors to the bathroom or other common areas of the building, except as specified in Section 2A(2) above. However, the tenant is responsible for the conduct of their unaccompanied visitor.
3. Nothing in this section shall interfere with the rights of owners and operators of SROs to exclude specific visitors who willfully or wantonly:
- A. disturb the peaceful enjoyment of the premises by other tenants and neighbors;
  - B. destroy, deface, damage, impair, or remove any part of the structure or dwelling unit, or the facilities or equipment used in common; or,
  - C. have committed repeated violations of the visitor policy which can be construed as creating a nuisance on the property; or constituting substantial interference with the comfort, safety or enjoyment of the landlord or tenants, which can be a just cause for eviction under the Rent Ordinance, as determined by the courts.
  - D. Any time a tenant's visitor is excluded from the hotel, written notice must be delivered to the tenant after the fact with the visitor's name and the reason for the exclusion.





4. SRO owners or operators shall make available to their tenants a copy of any written Supplemental Visitor Policy that complies with this policy. SRO owners or operators are required to prominently post the Uniform Visitor Policy and any Supplemental Visitor Policy on a minimum size of 11" x 17" by the entrance or in the lobby.
5. Other than as a settlement of an unlawful detainer action, a tenant cannot waive the rights as outlined in this legislation. Any agreement between the SRO owner or operator and the tenant that reduces or limits the rights set forth in this legislation shall be deemed void and unenforceable.
6. Tenants are accorded certain and specific rights as a result of this legislation. If the SRO owner or operator violates this provision, a tenant will have legal recourse and will be encouraged to visit the San Francisco Rent Stabilization Board or the Police, as appropriate.
7. SRO owners or operators seeking a modification of the rights set forth above may file a petition with the San Francisco Rent Stabilization Board and receive a hearing on said petition. Notice of the time and date of said hearing shall be prominently posted by the SRO owner or operator above the front desk of the hotel, in the lobby and at least five (5) copies shall be posted on each floor of the building.
8. The Rent Board shall translate the Uniform Visitor Policy into the predominant languages of the community and make them available as needed.

IV. Remarks from the Public (cont.)

C. Allen White thanked the Board for passing the Uniform Hotel Visitor Policy. He expressed his concern that a visitor who is 86ed from a hotel will never know about being 86ed if notice is just given to the tenant and not to the visitor. He stated that there is a diverse range of residential hotels and a diverse range of residential hotel tenants and consequently, the City should deal with issues affecting residential hotel tenants on a bigger level.

IX. Calendar Items

July 18<sup>th</sup> & 25<sup>th</sup>, 2006 – NO MEETINGS

August 1, 2006 – 4 appeal considerations

X. Adjournment

President Wasserman adjourned the meeting at 8:00 p.m.





NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

Tuesday, 6:00 p.m.,  
August 1, 2006  
25 Van Ness Avenue, #70, Lower Level

AGENDA

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07-20-07PTE:17 HCD

- LARRY BEACH BECKER
- DAVID GRUBER
- DEBORAH HENDERSON
- JIM HURLEY
- ANTHONY JUSTMAN
- CATHY MOSBRUCKER
- NEVEO MOSSER
- BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 587 Arballo Drive AT060065

The tenant appeals the decision granting a utility passthrough on the grounds of financial hardship.

B. 3039 Pine Street AT060066

The tenant appeals the decision denying her claims of decreased housing services and the landlord's failure to perform requested repair and maintenance.

C. 536 Leavenworth Street, #61 AL060067

The landlord appeals the decision granting a claim of decreased housing services.

D. 1000 Prague Street AL060069

The landlord appeals the decision granting a claim of unlawful rent increases.



- VI. Communications
- VII. Director's Report
- VIII. Old Business
- IV. Remarks from the Public (cont.)

**NOTE:** Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- IX. New Business
- X. Calendar Items
- XI. Adjournment





## ACCESSIBLE MEETING POLICY

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會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4603。

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There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

## Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Timothy Lee has been designated to coordinate this agency's compliance with the nondiscrimination requirements of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided under the Act, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845.

## Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlet Place, Room 244, San Francisco, CA 94102 at 554-7724.







**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

Tuesday, 6:00 p.m.,  
August 1, 2006  
25 Van Ness Avenue, #70, Lower Level

**AMENDED AGENDA**

DOCUMENTS DEPT.

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LARRY BEACH BECKER

DAVID GRUBER

DEBORAH HENDERSON

JIM HURLEY

ANTHONY JUSTMAN

CATHY MOSBRUCKER

NEVEO MOSSER

BARTHOLOMEW MURPHY

I. Call to Order

II. Roll Call

III. Approval of the Minutes

IV. Remarks from the Public

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

V. Consideration of Appeals

A. 587 Arballo Drive

AT060065

The tenant appeals the decision granting a utility passthrough on the grounds of financial hardship.

B. 3039 Pine Street

AT060066

The tenant appeals the decision denying her claims of decreased housing services and the landlord's failure to perform requested repair and maintenance.

C. 536 Leavenworth Street, #61

AL060067

The landlord appeals the decision granting a claim of decreased housing services.

D. 1000 Prague Street

AL060069

The landlord appeals the decision granting a claim of unlawful rent increases.



E. 561 Baker Street, #2

AT060070

The tenant appeals the dismissal of his petition alleging decreased housing services due to his failure to appear at the hearing.

- VI. Communications
- VII. Director's Report
- VIII. Old Business
- IV. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

- IX. New Business
- X. Calendar Items
- XI. Adjournment





**MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

Tuesday, August 1, 2006 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

I. Call to Order

DOCUMENTS DEPT.

President Wasserman called the meeting to order at 6:10 p.m.

AUG 28 2006

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II. Roll Call

Commissioners Present: Becker; Henderson; Hurley; Marshall;  
Mosbrucker; Murphy; Wasserman.  
Commissioners not Present: Gruber; Justman; Mosser.  
Staff Present: Lee; Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of July 11, 2006.  
(Becker/Murphy: 5-0)

IV. Consideration of Appeals

A. 587 Arballo Drive

AT060065

The landlord's petition for approval of a utility passthrough for 39 of 100 units was granted, resulting in a monthly passthrough of \$0.54 per room, or \$2.70 for the tenant's unit. The tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case to the Administrative  
Law Judge for a hearing on the tenant's claim of financial  
hardship. (Marshall/Henderson: 5-0)

B. 3039 Pine Street

AT060066

The tenant's petition alleging decreased housing services and the landlord's failure to perform requested repair and maintenance was denied. The



Administrative Law Judge (ALJ) found that the tenant did not meet her burden of proving that the number or location of the heaters was a code violation or that the amount of heat provided by the landlord did not meet code requirements. The ALJ also found that the lack of a main entry light does not constitute a substantial decrease in housing services nor is it required by the local housing code. On appeal, the tenant claims that: her bedroom is cold at night due to the lack of a heater and she cannot sleep well; the lack of an entry light makes the tenant fearful of an assault; and it is difficult to get her keys in the lock at night without a light.

MSC: To grant the tenant's request for a postponement and re-schedule consideration of this appeal for the September 5, 2006 Board meeting. (Marshall/Wasserman: 5-0)

C. 536 Leavenworth Street, #61

AL060067

The tenant's petition alleging decreased housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$525.00 due to unclean common areas and urine-contaminated elevator floors and walls. The landlord appeals, arguing that: the tenant continued to use the services in question; the tenant did not provide objective evidence as to his claims; no other tenants in the building complained; the tenant failed to provide notice of the alleged defective conditions; the problems were de minimus; and the amounts granted are excessive.

MSC: To deny the appeal. (Marshall/Becker: 3-2; Hurley, Murphy dissenting)

D. 1000 Prague Street #A

AL060069

The tenant's petition alleging an unlawful rent increase was granted and the landlord was found liable to the tenant in the amount of \$6,423.27. The Administrative Law Judge (ALJ) found that the tenant's unit was exempt from the Ordinance from August 1987 when the tenancy commenced until Proposition I went into effect on December 22, 1994 because it was in an owner-occupied 3-unit building. The tenant's first rent increase, which was given in 1997, exceeded the lawful limits for a Newly Covered Unit and was determined to be null and void. On appeal, the landlord claims that: the landlord made a good faith effort to comply with the Ordinance by increasing the tenant's rent by less than he would have been entitled to had the unit been subject to the Ordinance since 1987; the landlord was in substantial compliance with the Ordinance pursuant to Civil Code Section 1947.7 (The Petris Act); the Decision effects an unjust taking of the landlord's property in violation of the Fifth Amendment; Rules Section 1.11(b) is unconstitutional; the landlord should be entitled to banked annual allowable rent





increases for the period 8/1/87 to 12/22/93; the landlord is being denied a fair return; the Decision violates the purpose and goals of the Ordinance; the tenant did not meet his burden of proving the rent history as alleged in the petition; the legal Statute of Limitations should apply; the landlord was prejudiced because records were not retained; the 1997 rent increase was not excessive because it includes costs for roof repair and exterior painting; and the rent includes utilities and the cost of utilities has increased.

MSC: To recuse Commissioner Murphy from consideration of this appeal. (Marshall/Murphy: Approved by acclamation)

MSC: To accept the appeal and remand the case to permit the landlord to file a comparables petition in accordance with Rules Section 6.11(b)(2)(c); any increase approved pursuant to this petition shall be effective retroactive to May 1, 2004.  
(Wasserman/Hurley: 4-0)

E. 561 Baker Street, #2

AT060070

The tenant's petition alleging decreased housing services was dismissed due to his failure to appear at the properly noticed mediation session. On appeal, the tenant claims that he did not receive the Notice of Mediation and submits a Declaration of Non-Receipt of Notice of Hearing.

MSC: To accept the appeal and remand the case to the Administrative Law Judge for a new hearing. (Murphy/Marshall: 5-0)

#### V. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. A Resolution introduced by Supervisor Mirkarimi urging the Sheriff's Department to collect data on the number of Ellis Act evictions it enforces and urging the Sheriff and the Rent Board to stop providing information and assisting landlords seeking to evict tenants under the Ellis Act.

B. A Pending Litigation Status Report from Senior Administrative Law Judge Tim Lee.

C. A copy of the Uniform Hotel Visitor Policy as amended by the Board on July 11, 2006.



D. Two Resolutions introduced by Supervisor McGoldrick urging the School District to track student mobility caused by residential evictions and amending the Rent Ordinance to identify and report data on evictions involving school-age children, including data on evictions during the school term.

VI. Director's Report

Executive Director Wolf informed the Board as follows:

A. The rental unit fee split by tenants and landlords, which funds the operations of the agency, will be \$22 next year.

B. Proposition B, the eviction disclosure requirement passed on the November ballot, went into effect on July 28, 2006.

C. Staff is getting questions regarding the Mirkarimi legislation, which requires Just Cause for the severance or removal of certain housing services. Discussion of possible amendments to the Rules and Regulations will be calendared for the September 5<sup>th</sup> Board meeting. In the meantime, staff has developed a special Report of Alleged Wrongful Eviction form for this purpose, as well as accompanying form letters notifying landlords of the language of the new legislation.

VII. Remarks from the Public

A. Ted Kronick, the tenant in the case at 1000 Prague (AL060069), inquired as to the disposition of the landlord's appeal.

B. The tenant in Eviction Case No. E060592 read from the Eviction Unit Counselor's response to his Report of Alleged Wrongful Eviction; expressed his opinion that tenants have no rights in San Francisco; and said that he was disappointed with the Department of Building Inspection as well as the Rent Board.

C. The landlord's son in the case at 1000 Prague said that the tenant could have moved out if the conditions were so bad and expressed his belief that the tenant's niece is "egging him on."

VIII. Calendar Items

August 15, 2006 - NO MEETING

September 5, 2006

8 appeal considerations (1 postponed from 8/1/06)



New Business: Mirkarimi Legislation (Ordinance Section 37.2{r})

IX. Adjournment

President Wasserman adjourned the meeting at 7:15 p.m.



POLLY MARSHALL  
VICE-PRESIDENT

DELENE WOLF  
EXECUTIVE DIRECTOR

**NOTICE THAT THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

**SCHEDULED FOR TUESDAY,  
AUGUST 15, 2006, HAS BEEN  
CANCELLED**

**THE NEXT REGULAR MEETING WILL BE HELD ON  
TUESDAY, SEPTEMBER 5, 2006 AT 6:00 P.M.**

DOCUMENTS DEPT.

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**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

Tuesday, 6:00 p.m.,  
September 5, 2006  
25 Van Ness Avenue, #70, Lower Level

**AGENDA**

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

DOCUMENTS DEPT.

AUG 28 2006

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NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 3039 Pine St.

AT060066

(postponed from 8/1/06)

The tenant appeals the decision denying a claim of decreased housing services.

B. 429 Bush St. #53

AT060074

The tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.

C. 2143 Taylor St.

AL060071

The Master Tenant appeals the decision granting a claim of decreased housing services and finding that the subtenant was paying a disproportional share of the rent pursuant to Rules Section 6.15C(3).

D. 25 Guerrero #202

AT060068



The tenant appeals the decision granting a claim of unlawful rent increases but denying a claim of decreased housing services.

E. 4076 – 17<sup>th</sup> St.

AT060072

The tenant appeals the remand decision denying a claim of decreased housing services due to the unit being smaller than was originally represented.

F. 349 Cherry St. #5

AL060073

The landlord appeals the decision determining that the subject unit is the tenant's principal place of residence pursuant to Rules Section 1.21.

G. 20 – 12<sup>th</sup> St./1605 Market

AL060075

The landlord appeals the decision granting rent reductions due to the landlord's failure to seismically retrofit the building, a Single Room Occupancy Hotel.

H. 1254 – 5<sup>th</sup> Ave.

AT060080

The tenant appeals the decision finding that a rent increase is warranted pursuant to Rules Section 6.14 and Costa-Hawkins.

- VI. Communications
- VII. Director's Report
- VIII. Old Business
- IV. Remarks from the Public (cont.)

**NOTE:** Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- IX. New Business

Mirkarimi Legislation Requiring Just Cause for the Severance or Removal of Certain Housing Services (Ordinance Section 37.2{r})

- X. Calendar Items
- XI. Adjournment





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**MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

Tuesday, September 5, 2006 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

I. Call to Order

DOCUMENTS DEPT.

President Wasserman called the meeting to order at 6:09 p.m.

SEP 15 2006

II. Roll Call

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Commissioners Present: Becker; Gruber; Marshall; Mosser; Murphy;  
Wasserman.

Commissioners not Present: Hurley; Justman.

Staff Present: Lee; Wolf.

Commissioner Mosbrucker appeared on the record at 6:25 p.m.;

Commissioner Henderson arrived at 6:30 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of August 1, 2006.  
(Becker/Murphy: 5-0)

IV. Remarks from the Public

A. Hannah Peters, representing the tenant at 349 Cherry St. (AL060073), told the Board that the landlord is just focusing in on the tenant's having taken a Homeowner's Exemption, while the timeline shows that the condominium in San Mateo was up for sale prior to the petition having been filed, and was sold prior to the hearing. Mr. Peters remarked that a Homeowner's Exemption is just one factor in determining a tenant's principal place of residence.

B. Tenant Mary Ann Cramer of 25 Guerrero (AT060068) asked for a clarification of the depiction of her appeal on the Agenda.





C. Board President Sharon Wasserman announced her resignation from the Board after eleven years of service; the October 3<sup>rd</sup> Board meeting will be her last.

V. Consideration of Appeals

A. 3039 Pine St.

AT060066

(postponed from 8/1/06)

The tenant's petition alleging decreased housing services and the landlord's failure to perform requested repair and maintenance was denied. The Administrative Law Judge (ALJ) found that the tenant did not meet her burden of proving that the number or location of the heaters was a code violation or that the amount of heat provided by the landlord did not meet code requirements. The ALJ also found that the lack of a main entry light does not constitute a substantial decrease in housing services nor is it required by the local housing code. On appeal, the tenant claims that: her bedroom is cold at night due to the lack of a heater and she cannot sleep well; the lack of an entry light makes the tenant fearful of an assault; and it is difficult to get her keys in the lock at night without a light. At the meeting on August 1<sup>st</sup>, the Board granted the tenant's request for a postponement.

MSC: To deny the appeal. (Gruber/Murphy: 3-2; Becker, Marshall dissenting)

B. 429 Bush St. #53

AT060074

The tenant's hardship appeal of a decision certifying capital improvement costs was filed three years and four months late because the tenant allegedly did not know that he had the right to appeal.

MSC: To find no good cause for the late filing of the appeal. The Decision is therefore final. (Gruber/Murphy: 3-2; Becker, Marshall dissenting)

C. 2143 Taylor St.

AL060071

The tenant's petition alleging that she pays a disproportional share of the rent pursuant to Rules Section 6.15C(3) was granted and the Master Tenant was found liable in the amount of \$7,957.18. Additionally, the Master Tenant was found liable for prior rent overpayments and utility overcharges never refunded to the tenant pursuant to a prior Decision. The Master Tenant, who failed to appear at the hearing, appeals on the grounds that: he failed to receive notice of the



rescheduled hearing because he was out of the country and the case should have been postponed; he provided many amenities and improvements to the premises; the Decision is incorrect as to the amount of shared space in the unit; PG&E costs have risen substantially; statements about him by the tenant are untrue; the tenant failed to provide access in order for him to make repairs; many of the repairs were necessitated by the tenant's actions; there are errors in the Decision as to the amount of rent charged; and the Decision presents him with a financial hardship.

MSC: To accept the appeal and remand the case to the Administrative Law Judge for a new hearing, including the issue of hardship to the Master Tenant. The tenant's reduced base rent shall remain in effect unless and until a different base rent is established by the Board. (Gruber/Murphy: 5-0)

D. 25 Guerrero #202

AT060068

The tenant's petition alleging unlawful rent increases was granted and the landlords were found liable to the tenant in the amount of \$561.33. The portion of the petition alleging decreased housing services was denied because the Administrative Law Judge found that restrictions placed on the tenant's use of the back yard by the landlord were reasonable. On appeal, the tenant argues that: the rent overpayments are incorrectly calculated; there are factual and procedural errors in the Decision, as well as omission of material facts; and the ALJ abused his discretion in finding that the changes the landlord imposed in the garden did not result in a reduction of services to this tenant.

MSC: To recuse Commissioner Becker from consideration of this appeal. (Marshall/Gruber: Approved by acclamation)

MSC: To deny the appeal except to remand the case to the Administrative Law Judge for a necessary Technical Correction. (Gruber/Murphy: 3-2; Becker, Marshall dissenting)

E. 4076 – 17<sup>th</sup> St.

AT060072

The tenant's petition alleging a substantial decrease in housing services due to the unit's being significantly smaller than was represented by the landlord's agent was granted, and the landlord was found liable to the tenant in the amount of \$200.00 per month. The landlord's appeal was accepted by the Rent Board Commissioners, who remanded the case on the record to the Administrative Law Judge to vacate the Decision and find, under these facts, that there is not a substantial decrease in housing services. The tenant appeals the remand



decision, arguing that: in prior cases, the size of a unit has been found to constitute a "housing service;" a 25% reduction in square footage is "substantial;" he was thwarted by the resident manager in his attempts to measure the unit; although the additional space was never provided, it was promised and reasonably to be expected; moving would have subjected him to burdensome additional costs; and the landlords have demonstrated a pattern of unfair business practices.

MSC: To deny the appeal. (Gruber/Murphy: 3-2; Becker, Marshall dissenting)

F. 349 Cherry St. #5

AL060073

The landlord's petition for a determination pursuant to Rules Section 1.21 was denied because the ALJ found that the subject unit is the tenant's principal place of residence. On appeal, the landlord maintains that: the ALJ erred in finding that it was not proved that the tenant claimed a homeowner's exemption on a condominium in San Mateo; it is unfair that the tenant can retain rent control protections when he is subletting his unit for almost the entire monthly rental amount; and the burden of proof shifted to the tenant to rebut the landlord's evidence, which he did not do.

MSC: To deny the appeal. (Becker/Marshall: 3-2; Gruber, Murphy dissenting)

G. 20-12<sup>th</sup> St./1605 Market

AL060075

Thirty-four tenants were granted rent reductions in the amount of \$20 per month due to the landlords' failure to seismically retrofit their Single Room Occupancy Hotel, an unreinforced masonry building (UMB). The landlords appeal the decision, claiming that: the tenants failed to meet their burden of proving that the building is a UMB; the building has recently been reinspected and shown to be a steel frame structure, which does not require seismic retrofit; the failure to seismically upgrade a structure does not constitute a decrease in housing services; and there was no evidence that the tenants reasonably expected that the building would be retrofitted, nor that the landlords promised such an upgrade.

A Stipulated Agreement requesting that consideration of this appeal be continued was received from the parties and granted prior to the meeting.



H. 1254 – 5<sup>th</sup> Ave.

AT060080

The landlord filed a petition requesting a determination pursuant to Rules Section 6.14 and the Costa-Hawkins Rental Housing Act. The ALJ determined that, as the last original tenant no longer permanently resides in the subject unit and the subtenants moved in after January 1, 1996, a rent increase is warranted. On appeal, one of the subtenants claims not to have received the copy of the 6.14 notice the landlord claims to have sent.

MSC: To deny the appeal. (Gruber/Murphy: 4-1; Marshall dissenting)

#### VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. A copy of the Decision in the case of Small Property Owners of San Francisco v. City and County of San Francisco (Superior Court Case No. 406692).

B. A Memorandum from City Attorney Dennis Herrera regarding political activity by City officers and employees.

C. An article by Attorney Barbara Herzig in the S.F. Apartment Association magazine regarding restrictions on condo conversion where there have been evictions in the building.

D. Various articles from the San Francisco Examiner, BeyondChron, and the San Francisco Daily Journal.

E. A letter to President Wasserman from Rex Reginald regarding possible legislation to encourage landlords to be "pet friendly" by allowing them to increase rents slightly.

F. A Press Release from the Mayor's Office announcing the reappointment of Commissioners Marshall, Mosser, Mosbrucker and Hurley.

G. A Log of petitions filed for substantial rehabilitation exemption from the Ordinance.

#### VII. Director's Report

Senior Administrative Law Judge Tim Lee explained the holding in the case of Small Property Owners of San Francisco v. City and County of San Francisco. In





a prior case involving the City of Santa Monica, landlords were required to place tenants' security deposits in interest-bearing accounts at a federally insured financial institution, which paid less than the 3% interest required by the Santa Monica ordinance. Under San Francisco's ordinance, landlords could invest the tenants' security deposit moneys however they wished, which the evidence showed could provide a return of more than the 5% interest required to be paid.

Executive Director Delene Wolf told the Board that a Resolution passed by the Board of Supervisors urges boards and commissions to adopt policies regarding members' attendance at meetings, and requires such policy to be submitted by December 1, 2006. This issue will be discussed at a future Board meeting. Additionally, Ms. Wolf let the Board know that 60-day notice of termination for no fault evictions will be reinstated pursuant to a bill passed by the State legislature if it is signed by the Governor.

#### IV. Remarks from the Public (cont.)

D. Mary Ann Cramer of 25 Guerrero told the Board that she had no problem with the prior owners regarding her use of the garden for fourteen years, until the new owners bought the building. Ms. Cramer thought she had won the case at the time of the hearing, but feels that "something went wrong" upon review of the Decision. According to Ms. Cramer, the landlords are now saying that they will not put trees back in; what used to be the garden is now concrete; and she is being evicted pursuant to the Ellis Act.

#### VIII. New Business

Mirkarimi Legislation Requiring Just Cause for the Severance or Removal of Certain Housing Services (Ordinance Section 37.2{r})

The Board began its discussion of possible amendments to the Rules and Regulations to implement the recently passed Mirkarimi legislation, which took effect August 8<sup>th</sup>. Since several of the Commissioners had not received the Staff Memo on this issue, and draft proposed regulations prepared by Commissioners Mosbrucker and Murphy were just distributed this evening, discussion of this issue was continued to the next Board meeting.

#### IX. Calendar Items

September 12, 2006 - NO MEETING

September 19, 2006

7 appeal considerations

Old Business: Mirkarimi Legislation



New Business: Attendance at Board Meetings

X. Adjournment

President Wasserman adjourned the meeting at 7:35 p.m.





**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

Tuesday, **6:30 p.m.**,  
September 19, 2006  
25 Van Ness Avenue, #70, Lower Level

**AGENDA**

DOCUMENTS DEPT.

I. Call to Order

SEP 15 2006

II. Roll Call

SAN FRANCISCO  
PUBLIC LIBRARY

III. Approval of the Minutes

09-15-06A11:15 RCVD

IV. Remarks from the Public

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

V. Consideration of Appeals

A. 810 Gonzalez Dr. #7J

AT060081

One tenant appeals the decision granting a utility passthrough on the grounds of financial hardship.

B. 750 Gonzalez Dr. #9F

AT060083

The tenants in one unit appeal the decision granting a utility passthrough.

C. 85 Farallones

AT060086

The tenant appeals the dismissal of his petition alleging decreased housing services.

D. 376-B 2<sup>nd</sup> Ave.

AT060079

The tenant appeals the denial of her petition alleging decreased housing services.



E. 1770 Broadway #404, 501 & 605

AT060076 thru -78

Three tenants appeal the decision certifying capital improvement costs.

F. 505 – 26<sup>th</sup> Ave. #2E

AL060082

The landlord appeals the decision granting claims of unlawful rent increases and decreased housing services.

G. 613 Clayton St.

AL060084

The landlord appeals the decision granting claims of decreased housing services and failure to repair.

VI. Communications

VII. Director's Report

VIII. Old Business

Mirkarimi Legislation Requiring Just Cause for the Severance or Removal of Certain Housing Services (Ordinance Section 37.2{r})

IV. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

IX. New Business

Board of Supervisors' Resolution Regarding Attendance at Meetings

X. Calendar Items

XI. Adjournment







## ACCESSIBLE MEETING POLICY

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## Know Your Rights Under the Sunshine Ordinance

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**MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

Tuesday, September 19, 2006 at 6:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT.

SEP 29 2006

SAN FRANCISCO  
PUBLIC LIBRARY

I. Call to Order

Vice-President Marshall called the meeting to order at 6:40 p.m.

II. Roll Call

Commissioners Present: Becker; Gruber; Hurley; Marshall; Mosser.  
Commissioners not Present: Henderson; Wasserman.  
Staff Present: Lee; Wolf.

Commissioner Murphy appeared on the record at 6:42 p.m.; Commissioner Mosbrucker arrived at the meeting at 6:44 p.m.; and Commissioner Justman appeared at 6:45 p.m. Commissioner Marshall went off the record at 7:45 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of September 5, 2006.  
(Gruber/Hurley: 4-0)

IV. Remarks from the Public

A. Tenant Robert Rivkin of 1770 Broadway (AT060078) asked whether there would also be time for public comments after the consideration of appeals.

V. Consideration of Appeals

A. 810 Gonzalez Dr. #7J

AT060081

The landlord's petition for a utility passthrough for 68 of 153 units at Parkmerced was granted. One tenant appeals the Decision on the grounds of financial hardship.



MSC: To recuse Commissioner Becker from consideration of this appeal. (Gruber/Murphy: Approved by acclamation)

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Murphy/Gruber: 3-0)

B. 750 Gonzalez Dr. #9F

AT060083

The landlord's petition for a utility passthrough for 90 of 153 units at Parkmerced was granted. The tenants in one unit appeal on the grounds that: too many people are living in the units at the complex, resulting in excessive use of the elevators, laundry room and garbage services; unlawful activities are taking place, especially at night; the management uses their building for storage of equipment and their workers come in early in the morning; and there is no control over who is entering the building.

MSC: To recuse Commissioner Becker from consideration of this appeal. (Gruber/Murphy: Approved by acclamation)

MSC: To deny the appeal. (Murphy/Gruber: 4-0)

C. 85 Farallones

AT060086

The tenant's petition alleging decreased housing services was dismissed because he arrived an hour late for the properly noticed hearing. On appeal, the tenant claims that he told a Rent Board staff member that he would be late and his petition should not have been dismissed.

MSC: To deny the appeal. (Gruber/Murphy: 3-2; Becker, Marshall dissenting)

D. 376-B 2<sup>nd</sup> Ave.

AT060079

The tenant's petition alleging decreased housing services was denied pursuant to the Golden Gateway decision because the ALJ found that the tenant's quiet enjoyment of her unit was interrupted due to necessary work on the building, and that the other conditions complained of by the tenant were not substantial. The tenant appeals, claiming that: the landlord committed perjury at the hearing; the landlord misrepresented the scope of the construction project; and the ALJ exhibited bias on behalf of the landlord and did not allow the tenant to present her case in its entirety.

MSC: To deny the appeal. (Gruber/Murphy: 5-0)



E. 1770 Broadway #404, 501 & 605

AT060076 thru -78

The landlord's petition for certification of capital improvement costs to 17 of 36 units was granted, in part. Three tenants appeal the decision on the grounds that: the Administrative Law Judge exhibited bias against them and favoritism toward the landlord and her attorney; the curb and sidewalk replacements should not have been certified because the condition had been cited and the landlord did not abate the code violation within 90 days, nor prove that she made good faith efforts to do so; the ALJ ignored the tenant's evidence; the landlord committed fraud and gave perjured testimony at the hearing; and the \$600 that was disallowed for the curb work was inadequate compensation for that portion of the job.

MSC: To recuse Commissioner Mosser from consideration of this appeal. (Murphy/Gruber: Approved by acclamation)

MSC: To deny the appeal. (Gruber/Murphy: 5-0)

F. 505 – 26<sup>th</sup> Ave. #2E

AL060082

The tenant's petition alleging unlawful rent increases and decreased housing services was granted and the landlord was found liable to the tenant in the amount of \$34.70 for rent overpayments, \$81.11 for an improper utility passthrough and \$110.00 for removal of the tenant's own microwave from the kitchen. On appeal, the landlord claims that: the ALJ's calculation of rent overpayments is incorrect; the tenant should pay 1/3 of the utility passthrough since there are three tenants in the unit; and the tenant breached the agreement by not letting the other tenants in the unit use the microwave, which is dangerous, and was not provided by the landlord as a housing service.

MSC: To deny the appeal. (Becker/Gruber: 5-0)

G. 613 Clayton St.

AL060084

The tenant's petition alleging decreased housing services and the landlord's failure to repair was granted and the landlord was found liable in the amount of \$3,996.00 due to a structurally unsound back porch. An annual rent increase was also ordered deferred. The landlord appeals, arguing that: the Golden Gateway decision precludes a rent reduction while the landlord was making necessary repairs; delays in the work were caused by the tenant; the landlord failed to receive the Notices of Violation, which were sent to an incorrect address; the landlord received inadequate notice of the arbitration; the tenant is only entitled to his proportionate share of the amount granted; and the tenant's





roommates' claims are unknown and the landlord was unable to cross-examine these individuals.

MSC: To deny the appeal. (Becker/Marshall: 5-0)

IV. Remarks from the Public (cont.)

B. Tenant Robert Rivkin of 1770 Broadway told the Board that the Rules require that the landlord fix the illegal curb cut violation within 90 days of the Notice of Violation being issued, or the cost of the work shouldn't have been certified. Mr. Rivkin alleged that his landlord lied under oath, and that the ALJ didn't address a single fact in his appeal. Mr. Rivkin believes that the Board ignored the law and the evidence in his case, and feels that "the public's trust needs to be earned."

VI. Communications

The Board received the following communications:

A. The Order Granting Motion for Issuance of Peremptory Writ of Mandate in the case of Brown v. Rent Board (Superior Court Case No. CPF-04-504099).

B. The Rent Board Monthly Workload Statistics for July, 2006.

C. A new Staff Roster.

D. Topical articles from BeyondChron and the San Francisco Examiner.

VII. Director's Report

Executive Director Wolf told the Board that Wade Crowfoot of the Mayor's Office is working on finding a replacement for President Wasserman. Election of Officers will be placed on the Agenda for the October 3<sup>rd</sup> meeting.

VIII. Old Business

Mirkarimi Legislation Requiring Just Cause for the Severance or Removal of Certain Housing Services (Ordinance Section 37.2(r))

The Board continued their discussion of possible amendments to the Rules and Regulations to implement the Mirkarimi legislation, which took effect August 8<sup>th</sup>. The Commissioners discussed draft proposals submitted by Commissioners Mosbrucker and Murphy, and a Memo comparing the two proposals authored by Senior Administrative Law Judge Tim Lee. Several issues were raised, including:



whether tenant complaints regarding the removal of housing services should be processed as wrongful evictions; under what circumstances the Rent Board should be deciding whether or not Just Cause exists for the severance of the service; whether advisory opinions should be issued regarding the value of the service prior to its removal; whether 60-day notice can be given just for removal of the service, or whether the tenant must also be evicted from the unit; and whether different processes should be established for the different Just Causes. Commissioner Mosser expressed his concern that the Just Cause requirement could complicate necessary rehabilitation projects, especially in common areas. Commissioner Murphy stated that he is most interested in ferreting out "pretextual evictions," where services are terminated in order to force the tenant to vacate. This issue will be discussed further at the October 17<sup>th</sup> Board meeting.

IX. New Business

Board of Supervisors' Resolution Regarding Attendance at Meetings

The Commissioners received a copy of a Board of Supervisors resolution urging boards and commissions to adopt policies regarding members' attendance at meetings, as well as guidelines for commissioner attendance from the Mayor. Executive Director Wolf and Senior Administrative Law Judge Tim Lee will draft a proposed attendance policy for the Board's consideration at a future meeting.

X. Calendar Items

September 26, 2006 - NO MEETING

October 3, 2006

5 appeal considerations

New Business: Election of Officers

XI. Adjournment

Commissioner Gruber adjourned the meeting at 8:10 p.m.



## City and County of San Francisco

Residential Rent Stabilization and  
Arbitration Board

**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

Tuesday, 6:00 p.m.,  
October 3, 2006  
25 Van Ness Avenue, #70, Lower Level

**AGENDA**

DOCUMENTS DEPT.

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

SEP 28 2006

SAN FRANCISCO  
PUBLIC LIBRARY

09-28-06A10:47 RCVD

**NOTE:** Pursuant to Section 2.13(c) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 631 Edna St.

AL060088

The landlord appeals the decision granting a claim of decreased housing services.

B. 733 Capp St.

AL060085

The landlord appeals the decision granting a claim of unlawful rent increase and finding that no rent increase is warranted under Costa-Hawkins or Rules Section 6.14.

C. 307 - 30<sup>th</sup> Ave.

AT060089

The tenants appeal the decision denying their claim of decreased housing services.

D. 107 - 19<sup>th</sup> Ave.

AL060090

The landlord appeals the decision granting claims of decreased housing services and determining rent overpayments.





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Page 2 of the Agenda of October 3, 2006

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E. 908-910 Stanyan

AL060091

The landlord appeals the decision denying capital improvement certification for the costs of a new laundry room and coin-operated washers and dryers.

VI. Communications

VII. Director's Report

VIII. Old Business

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

IX. New Business

Election of Officers

X. Calendar Items

XI. Adjournment





# City and County of San Francisco

# Residential Rent Stabilization and Arbitration Board



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(5/04) snstsh/Board/accmig





**MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

Tuesday, October 3, 2006 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT.

OCT 12 2006

SAN FRANCISCO  
PUBLIC LIBRARY

I. Call to Order

President Wasserman called the meeting to order at 6:10 p.m.

II. Roll Call

Commissioners Present: Gruber; Henderson; Marshall; Mosser;  
Wasserman.  
Commissioners not Present: Becker; Hurley; Murphy.  
Staff Present: Lee; Wolf.

Commissioner Mosbrucker appeared on the record at 6:13 p.m.;  
Commissioner Justman arrived at the meeting at 6:20 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of September 19, 2006.  
(Gruber/Marshall: 5-0)

IV. Remarks from the Public

A. Guadalupe Arreola of St. Peter's Housing Committee told the Board that she was present to represent and support the tenants in the case at 733 Capp St. (AL060085).

B. Tenant Maureen Dunne of 307 – 30<sup>th</sup> Ave. (AT060089) said that she thought that the Rent Board was supposed to be fair, but that the landlord in her case committed perjury and the Administrative Law Judge (ALJ) exhibited bias against the tenants. Ms. Dunne believes that the Rent Board grants inadequate compensation for senior and disabled tenants.

C. The tenant in case number T061360 expressed his belief that the Citizen Complaint Officers at the Rent Board are not helpful; that one of the counselors



used to work at the Eviction Defense Collaborative, which he believes constitutes a conflict of interest; and that the Rent Board exhibits a "classist East Coast bias, which is not how we do things in California."

V. Consideration of Appeals

A. 631 Edna St.

AL060088

The tenant's petition alleging decreased housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$1,097.50 for an electrical problem, defective light fixture and no heat in the unit. A claim of failure to repair was denied because the landlord had rescinded the noticed rent increase. The landlord appeals, claiming that: the Administrative Law Judge prematurely terminated the testimony of one of the landlord's witnesses; the tenant failed to provide evidence to prove her claims; the tenant has not provided access to the unit so that the landlord could make repairs; the electrical circuitry in the unit and the heating device are functioning properly; and the tenant complained about the alleged lack of heat on only one occasion.

MSC: To deny the appeal. (Marshall/Henderson: 4-1; Gruber dissenting)

B. 733 Capp St.

AL060085

The tenants' petition alleging an unlawful rent increase and seeking a determination as to the proper base rent was granted and the landlord was found liable to the tenants in the amount of \$3,394.99. In addition, a rent increase from \$1,328.08 to \$3,500.00 was found not to be authorized because a Rules Section 6.14 notice was served on the tenants several years after the landlord knew of their occupancy of the premises. On appeal, the landlord maintains that: the tenants are not co-tenants as cash rent payments were always delivered on their behalf to the landlord and no direct landlord-tenant relationship was ever established; the increase is authorized by Costa-Hawkins, and no 6.14 notice was required; and the landlord did not waive her right to a rent increase under these facts.

MSC: To deny the appeal. (Marshall/Henderson: 5-0)

C. 307 – 30<sup>th</sup> Ave.

AT060089

The tenants' petition alleging decreased housing services and the landlord's failure to repair was denied. On appeal, the tenants claim that: the landlord also has personal belongings in the garage and it is their responsibility to abate the Notice of Violation; the Fire Inspector found no combustible materials in the



garage; if the tenants' personal belongings must be removed from the garage, they are entitled to a rent reduction; and no rent increase should take effect until all Notices of Violation are abated.

MSC: To deny the appeal. (Mosser/Gruber: 5-0)

D. 107 – 19<sup>th</sup> Ave.

AL060090

The tenants' petition alleging a substantial decrease in housing services and questioning the validity of rent increase notices was granted, in part. The landlord was found liable to the tenants in the amount of \$1,410.16 due to rent overpayments and \$840.00 due to the loss of a second parking space and temporary loss of use of the back yard. On appeal, the landlord claims that: there are errors in the Administrative Law Judge's calculation of the rent overpayments; a rent reduction should not have been granted for the loss of a parking space which did not legally exist; and the tenant failed to prove the value of the temporary loss of use of the back yard.

MSC: To deny the appeal. (Henderson/Marshall: 5-0)

E. 908-910 Stanyan

AL060091

The landlord's petition for certification of capital improvement costs to 3 of 5 units was certified, in part. The costs of a new laundry room and machines were disallowed pursuant to Rules Section 1.13 because capital improvements otherwise eligible for certification are not eligible if the landlord charges a use fee such as where the tenant must deposit coins to use a landlord-owned washer and dryer. On appeal, the landlord asks that the Board re-evaluate this policy as the nominal use fee charged does not cover the costs of utilities or maintenance of the machines, which were installed for the convenience of the tenants.

MSC: To deny the appeal (Marshall/Henderson: 5-0)

#### VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. Two articles of interest from the San Francisco Examiner.

B. An article from the California Acorn web site announcing the fact that the Governor signed AB 1169, which restores the 60-day notice requirement for no fault evictions as of January 1, 2007.





C. A new Rent Board Staff Roster.

VII. Director's Report

Executive Director Wolf announced that new Citizens Complaint Officer Jennifer Rakowski started work on September 25<sup>th</sup>; Jennifer comes to the agency from Community United Against Violence.

Ms. Wolf also informed the Board that today, October 3<sup>rd</sup>, is "Sharon Wasserman Day" in the City and County of San Francisco, because it is President Wasserman's last Board meeting. This is in recognition of the eleven years of outstanding leadership and dedicated service that Ms. Wasserman has provided the Rent Board, and all that she has given to the landlords and tenants of San Francisco. Ms. Wasserman thanked her fellow Commissioners for their "intelligence and hard work," and remarked on the Board's capacity to enjoy each other's company, despite the "built-in tension" of the Board having landlord and tenant seats. Commissioner Marshall expressed her belief that much of the Board's collegiality can be attributed to President Wasserman. Commissioner Justman expressed his gratitude for having another neutral commissioner who consistently saw the issues the same way that he did.

IV. Remarks from the Public (cont.)

D. The tenant in case number T061360 said that the Director of the Rent Board doesn't have control over the staff at the agency. He asked how Commissioners are selected and asked that he get to review his remarks prior to their being recorded in the Minutes. He was informed that the public does not get to pre-approve the Minutes.

VIII. New Business

Election of Officers

MSC: To nominate Commissioner Gruber for President and  
Commissioner Becker for Vice-President of the Board.  
(Marshall/Mosser: 7-0)

Congratulations to the Board's new Officers!

X. Calendar Items

October 10, 2006 - NO MEETING



October 17, 2006

8 appeal considerations

Old Business: Mirkarimi Legislation (Ordinance §37.2{r})

XI. Adjournment

President Wasserman adjourned the meeting at 6:50 p.m.





**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

Tuesday, **6:30 p.m.**,  
October 17, 2006  
25 Van Ness Avenue, #70, Lower Level

**AGENDA**

DOCUMENTS DEPT.

- I. Call to Order OCT 12 2006
- II. Roll Call SAN FRANCISCO  
PUBLIC LIBRARY
- III. Approval of the Minutes 10-12-06A11:22 RCVD
- IV. Remarks from the Public

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

V. Consideration of Appeals

A. 405 Serrano #10F AT060100

One tenant appeals the decision approving a utility passthrough.

B. 550 Battery St. #1418 AT060099

One tenant appeals the decision approving a utility passthrough.

C. 1277 - 14<sup>th</sup> Ave. AT060092

The tenant appeals the decision granting a claim of unlawful rent increases but denying a claim of decreased housing services.

D. 237 San Carlos St. AT060093

The tenant appeals the decision determining the lawful rent pursuant to Rules Section 6.15C(3)

E. 1360 Jones St., Unit No. 602 AL060094





The landlord appeals the decision determining that the unit is the tenant's principal place of residence pursuant to Rules Section 1.21.

F. 255 – 9<sup>th</sup> Ave.

AT060097

The tenants appeal the decision denying a claim of decreased housing services.

G. 810 Gonzalez Dr., Unit No. 6-A  
711 Gonzalez Dr.

AL060095 & -96

The landlord appeals two decisions granting claims of unlawful rent increase pursuant to the rescission of a “bonus bucks” incentive program.

H. 2 Church St., No. 7

AL060098

The landlord appeals the determination that the unit is the tenant's principal place of residence pursuant to Rules Section 1.21.

VI. Communications

VII. Director's Report

VIII. Old Business

Mirkarimi Legislation Requiring Just Cause for the Severance or Removal of Certain Housing Services (Ordinance Section 37.2{r})

IV. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

IX. New Business

X. Calendar Items

XI. Adjournment







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**MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

Tuesday, October 17, 2006 at 6:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

**I. Call to Order**

DOCUMENTS DEPT.

President Gruber called the meeting to order at 6:40 p.m.

NOV 10 2006

**II. Roll Call**SAN FRANCISCO  
PUBLIC LIBRARY

Commissioners Present: Becker; Gruber; Henderson; Hurley;  
Justman; Mosbrucker; Mosser; Murphy.  
Commissioners not Present: Marshall.  
Staff Present: Gartzman; Lee; Wolf.

**III. Approval of the Minutes**

MSC: To approve the Minutes of October 3, 2006.  
(Becker/Justman: 5-0)

**IV. Remarks from the Public**

A. Daniel Stern, attorney for Parkmerced, remarked on the "Bonus Bucks" cases (AL060095 & 096), telling the Board that the constitutional right to contract is at issue, since there was no fraud, duress or undue influence on the tenants. Mr. Stern asserted that the temporarily discounted rent scheme is not in contravention of the Ordinance, and that the current cases are distinguishable from prior cases decided by the Board because the "bonus bucks" are equivalent to cash. Mr. Stern went on to say that the landlord never intended to charge any amount of rent other than that stated in the lease, and that the "bonus bucks" were just an incentive, similar to airline tickets or a plasma TV.

B. Aaron Goodman, a tenant at Parkmerced, told the Board that no one is looking at the "big picture" of what's going on at Parkmerced, and that people have moved out because their "bonus bucks" rent discount had expired. Mr. Goodman believes that this issue should be forwarded to the Board of





Supervisors so that the public can review and comment on the scope of the Parkmerced landlord's development efforts.

C. Tenant Suzanne Morgan of 1277 – 14<sup>th</sup> Ave. (AT060092) commented on the denial of her petition alleging decreased housing services due to the landlord's failure to provide a replacement stove and refrigerator because she had failed to prove that the landlord would not have replaced the appliances within a reasonable amount of time. Ms. Morgan said that she brought evidence to the hearing of material that came out of the vent and on to her stove. She maintained that her landlord did not feel liable for a stove that she had not purchased.

V. Consideration of Appeals

A. 405 Serrano #10F

AT060100

The tenant's appeal was filed over one month late because the elderly tenant was experiencing health problems.

MSC: To recuse Commissioner Becker from consideration of this appeal. (Mosbrucker/Murphy: 5-0)

MSC: To find good cause for the late filing of the appeal.  
(Mosbrucker/Henderson: 5-0)

The landlord's petition for approval of a utility passthrough for 74 of 153 units was granted. One tenant appeals the Decision on the grounds that it is unfair to make half of the tenants in the complex pay 100% of the bill, since there are many students who come and go in the complex, as well as outsiders.

MSC: To deny the appeal. (Murphy/Mosbrucker: 5-0)

B. 550 Battery St. #1418

AT060099

The landlord's petition for approval of a utility passthrough for 17 of 794 units was granted. One tenant appeals the Decision, asserting that: the base year for the calculation is 1994, but his tenancy did not commence until 1995; and the calculation should not be based on four rooms when he resides in a one-bedroom unit.

MSC: To deny the appeal. (Mosbrucker/Murphy: 5-0)

C. 1277 – 14<sup>th</sup> Ave.

AT060092



The tenant's petition alleging unlawful increases in rent was granted and the landlords were found liable to the tenant in the amount of \$2,315.00. The tenant's claims of decreased housing services were denied. The tenant appeals, maintaining that the ALJ erred in finding that the tenant did not provide enough time for the landlords to replace a defective stove and refrigerator, because the landlord had indicated that she would not do so.

MSC: To deny the appeal. (Murphy/Gruber: 4-1; Becker dissenting)

D. 237 San Carlos St.

AT060093

The tenant's petition requesting a determination of his lawful rent pursuant to Rules Section 6.15C(3) was granted and the Master Tenant was found liable in the amount of \$580.00 due to the tenant's having paid more than his proportional share of the rent. The tenant appeals, claiming that: the ALJ erred in setting his share of the rent at \$180.00, rather than the \$150.00 that he now pays; there are factual errors in the Decision; the storage space in the basement is provided by the property owner free of charge; household tasks are shared by all the roommates; and the Master Tenant should have had to file a landlord petition in order to have been granted a rent increase.

MSC: To deny the appeal. (Murphy/Justman: 5-0)

E. 1360 Jones St., Unit No. 602

AL060094

The landlord's petition seeking a determination pursuant to Rules Section 1.21 was denied because the Administrative Law Judge (ALJ) found that the subject unit is the tenant's principal place of residence. On appeal, the landlord maintains that: the facts adduced at the hearing do not support the conclusions reached by the ALJ; the tenant's story is not credible; and the subtenant at the premises moved in after January 1, 1996 and a Costa-Hawkins rent increase is therefore warranted.

MSC: To accept the appeal and schedule a de novo appeal hearing before the Board; each side will be limited to thirty minutes to present its case. (Murphy/Gruber: 3-2; Becker, Mosbrucker dissenting)

F. 255 – 9<sup>th</sup> Ave., Apt. #1

AT060097

The tenants' petition alleging decreased housing services was denied because the ALJ found that the tenants failed to prove that use of a parking space was included in the tenants' rent. The tenants appeal, alleging that: the landlord lied at the hearing and fabricated documents; another tenant in the building also does





not have parking provided for in their lease; there are factual errors in the Decision; the ALJ failed to consider post-hearing evidence; and one of the tenants will bring an interpreter to the remand hearing, should one be granted.

MSC: To deny the appeal. (Murphy/Gruber: 5-0)

G. 810 Gonzalez Dr., Unit No. 6-A  
711 Gonzalez Dr.

AL060095 & -96

Two tenants filed petitions alleging unlawful rent increases and asking for a determination as to whether their base rents were the proper amount. The ALJ found that the tenants' lawful base rents were the amounts they were paying under the "Bonus Bucks" program offered by management at the inception of their tenancies, rather than the higher "market" amounts that the landlords specified on their leases and were now demanding. The landlords appeal, asserting that: a prior Rent Board decision finding the Bonus Bucks Program a wrongful contravention of the Rent Ordinance was wrongly decided; it is improper for the Rent Board to re-work a material term of a contract that was freely entered into and supported by adequate consideration; there is no requirement that initial base rent mirror fair market value; the effect of these decisions is to re-impose vacancy control, which is precluded by Costa-Hawkins; the petitions should have been administratively dismissed; "initial term" is not the same as "initial occupancy"; and the Bonus Bucks amounts should not have been amortized over a 12-month period.

MSC: To deny the appeals. (Mosbrucker/Henderson: 3-2; Gruber, Murphy dissenting)

H. 2 Church St., No. 7

AL060098

The landlord's petition seeking a determination pursuant to Rules Section 1.21 was denied because the ALJ found that the subject unit is the tenant's principal place of residence. On appeal, the landlord asserts: that the ALJ erred in finding that the tenant and her husband file separate tax returns; and the fact that the tenant obtains tax benefits on the Santa Cruz home owned by she and her husband should preclude her from receiving the benefit of a rent controlled apartment.

MSC: To deny the appeal. (Murphy/Gruber: 5-0)

#### VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:



- A. An article from the October 11<sup>th</sup> Wall Street Journal.
- B. The office workload statistics for the month of September.
- C. The fiscal year 2005-06 Annual Statistical Report.

VII. Director's Report

Senior Administrative Law Judge Tim Lee informed the Board that, in a recent Small Claims Court case, a tenant's claim for attorney's fees under the lease was granted based on the tenant successfully defending a landlord petition at the Rent Board. On de novo appeal to the Superior Court, the judge followed a prior trial court decision in reversing the award, and found that there was no right to attorney's fees in a Rent Board proceeding. Executive Director Wolf told the Commissioners they could contribute to the City's Combined Charities Campaign by using the forms provided in their folders.

VIII. Old Business

Mirkarimi Legislation Requiring Just Cause for the Severance or Removal of Certain Housing Services (Ordinance Section 37.2{r})

The Board continued their discussion of possible amendments to the Rules and Regulations to implement the Mirkarimi legislation, which took effect August 8<sup>th</sup>. Several issues were raised, including: what constitutes a reasonable amount of time for the temporary removal of a housing service; whether necessary repair should be treated differently from elective work; how these types of petitions should be processed; what are the available remedies for wrongful severance of a housing service; and how many of the requirements of Ordinance Section 37.9(a)(8), regarding owner-occupancy eviction, should apply. It was decided that Commissioner Justman will work with Senior Administrative Law Judge Lee on drafting proposed regulations for discussion at the November 14<sup>th</sup> Board meeting.

IV. Remarks from the Public (cont.)

D. H. N. Dao asked several questions regarding an owner's right to take away housing services if they don't live in the building, and if they move in.

E. Tenant Aaron reiterated his contention that the situation at Parkmerced should be studied; he asked whether affected tenants should file petitions at the Rent Board, or join the pending class action lawsuit.



F. Rex Reesa, a student at S. F. State University, asked how each Commissioner voted on the Parkmerced "bonus bucks" appeal.

IX. Calendar Items

October 24<sup>th</sup>, 31<sup>st</sup> (Halloween) & November 7<sup>th</sup> (Election Day) - NO MEETINGS

**6:30** November 14, 2006

8 appeal considerations

Old Business:

- A. Commissioner Attendance Policy
- B. Mirkarimi Legislation (Ordinance §37.2{r})

X. Adjournment

President Gruber adjourned the meeting at 8:40 p.m.





**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

Tuesday, **6:30 p.m.**,  
November 14, 2006  
25 Van Ness Avenue, #70, Lower Level

**AGENDA**

I. Call to Order

II. Roll Call

DOCUMENTS DEPT.

III. Approval of the Minutes

NOV 10 2006

IV. Remarks from the Public

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PUBLIC LIBRARY

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

V. Consideration of Appeals

A. 3116 – 16<sup>th</sup> St. #4

AT060108

The tenant appeals the dismissal of his petition alleging decreased housing services due to his failure to appear at the hearing.

B. 1370 – 11<sup>th</sup> Ave. #6

AL060102

The landlord appeals the decision granting a claim of decreased housing services.

C. Golden Gateway

AL060101

The landlord appeals the dismissal of 20 petitions for approval of utility passthroughs as having been untimely filed.

D. 1851 – 8<sup>th</sup> Ave. #4

AT060104 & AL060105

The tenants appeal two decisions denying claims of decreased housing services and unlawful rent increase.

E. 285 Greenwich St.

AT060106







The tenant appeals the determination that he is not a "Tenant in Occupancy" pursuant to Rules Section 1.21.

F. 1382 – 8<sup>th</sup> Ave. #1

AT060103

The tenant appeals the decision denying claims of decreased housing services.

G. 1109 Elm St.

AL060109

The landlord appeals the decision denying her Petition for Extension of Time to do Capital Improvement Work.

VI. Communications

VII. Director's Report

VIII. Old Business

A. Commissioners' Attendance Policy

B. Mirkarimi Legislation Requiring Just Cause for the Severance or Removal of Certain Housing Services (Ordinance Section 37.2{r})

IV. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

IX. New Business

X. Calendar Items

XI. Adjournment





## ACCESSIBLE MEETING POLICY

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**MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

Tuesday, November 14, 2006 at **6:30** p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

I. Call to Order

DOCUMENTS DEPT.

President Gruber called the meeting to order at 6:35 p.m.

NOV 28 2006

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II. Roll Call

Commissioners Present: Becker; Gruber; Henderson; Hurley;  
Justman; Marshall; Mosbrucker; Murphy.  
Commissioners not Present: Mosser.  
Staff Present: Gartzman; Lee; Wolf.

Commissioner Marshall went off the record at 8:35 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of October 17, 2006.  
(Becker/Hurley: 5-0)

IV. Remarks from the Public

A. Darryl Nelson, Attorney for the tenant at 285 Greenwich (AT060106), told the Board that tenants in eviction controlled units are affected by a ruling that the rent can be increased without limitation, because that can result in a constructive eviction. Ms. Nelson expressed her belief that a rent increase pursuant to Rules Section 1.21 should be limited to the fair market rent. She asked why a landlord would pay the higher relocation benefits under Proposition H when they could just prohibitively raise the rent?

V. Consideration of Appeals

A. 3116 – 16<sup>th</sup> St. #4

AT060108





The tenant's petition alleging decreased housing services was dismissed due to his failure to appear at the properly noticed hearing. On appeal, the tenant claims that ill health had prevented him from attending the hearing.

MSC: To accept the appeal and remand the case to the Administrative Law Judge to change the dismissal of the tenant's petition to without prejudice to re-filing. (Becker/Marshall: 5-0)

B. 1370 – 11<sup>th</sup> Ave. #6

AL060102

The tenants' petition alleging decreased housing services was granted, in part, and the landlords were found liable to the tenants in the amount of \$1,395.00. The landlords appeal, maintaining that: the amounts granted by the ALJ are excessive and not explained; the tenants never complained that their belongings were damaged by mold; the buzzer system was resolved within a reasonable period of time; and the tenant could have entered the unit through other means when she was locked out.

MSC: To deny the appeal. (Becker/Marshall: 5-0)

C. Golden Gateway

AL060101

The landlord filed 20 petitions for approval of utility passthroughs pursuant to Rules Section 6.16. The petitions were administratively dismissed as having been untimely filed. On appeal, the landlord argues that the Board should waive the regulatory filing deadline because: this is a huge apartment complex which made the changed filing requirements exceptionally difficult to meet; the changed methodology made the landlord's computer database records obsolete; the tenants are neither harmed nor prejudiced on account of the delay; the landlord will suffer financial hardship if the petitions are not heard; good cause exists for waiving the filing deadline in the first year of the new regulatory scheme, and the Board has waived its regulations in the past; the filing deadline is directory, and not mandatory; and the Board lacks the authority to require landlords to file petitions to pass through increased utility costs.

MSF: To deny the appeal. (Marshall/Becker: 2-3; Gruber, Murphy, Justman dissenting)

MSC: To accept the appeal, find good cause for the late filing and permit consideration of the petitions on the condition that if the petitions are granted, the landlord shall recover only 10 months rather than 12 months of the approved passthrough amounts. The Administrative Law Judge shall establish a repayment plan for those tenants who have not been paying the noticed





passthrough amounts. The appeal is denied as to all other issues. (Murphy/Gruber: 3-2; Becker, Marshall dissenting)

D. 1851 – 8<sup>th</sup> Ave. #4

AT060104 & AL060105

The tenants' appeals were filed one day late because the tenants mailed the appeal from out of town, which took longer; and the envelope the decision was mailed in did not have a postmark.

MSC: To find good cause for the late filing of the appeals.  
(Becker/Murphy: 5-0)

The tenants' petition alleging decreased housing services due to lack of heat in the unit was denied. Additionally, a \$75 increase in rent was determined to be a lawful restoration of the prior base rent amount that was temporarily reduced by the landlord to accommodate the tenants' hardship. The tenants appeal both decisions, claiming that: the landlord made false statements at the hearing, including the allegation that the tenants turned off the circuit breaker, which caused the heater to fail; the ALJ exhibited bias on behalf of the landlord and ignored evidence submitted by the tenants; the landlord lowered the tenants' rent due to market conditions and because the tenants might have moved out of the unit if he hadn't; and the upstairs unit with a lower rent is identical to the tenants' unit.

MSC: To deny the appeals. (Murphy/Gruber: 5-0)

E. 285 Greenwich St.

AT060106

The landlord's petition for a determination pursuant to Rules Section 1.21 was granted as the ALJ found that the subject unit is not the tenant's principal place of residence. The tenant failed to attend the properly noticed hearing, nor did he send a representative. On appeal, the tenant claims that: the decision is unconstitutional and denies the tenant due process, as he was not informed of the amount of the proposed rent increase; and the amount of rent exceeds the market value of the unit and therefore is an attempted constructive eviction, from which the tenant is protected.

MSC: To deny the appeal except to remand the case to the Administrative Law Judge to change the language of the decision to strike the finding that the landlord's noticed rent increase to \$2,100.00 is lawful, and state only that the increase does not violate the rent increase limitations of the Ordinance.  
(Murphy/Hurley: 5-0)



F. 1382 – 8<sup>th</sup> Ave. #1

AT060103

The tenant's petition alleging decreased housing services was denied because the ALJ found that the conditions were not substantial, that the tenant failed to provide the landlord access to make repairs and that the tenant had failed to follow the procedures for obtaining a replacement roommate outlined in Rules Section 6.15B(b)(1). On appeal, the tenant claims that: written evidence and witness testimony provided by the tenant were not considered by the ALJ; that she has been harassed by her landlords; and that the ALJ exhibited bias on behalf of the landlords.

MSC: To deny the appeal. (Murphy/Gruber: 5-0)

G. 1109 Elm St.

AL060109

The landlord's petition for extension of time to do capital improvement work was denied as having been untimely filed, incomplete and because the scope of work was expanded beyond what was stated in the notice to vacate and requested in the original building permit. On appeal, the landlord maintains that it was impossible for the landlord to comply due to circumstances beyond her control and the ALJ failed to take this into account.

MSC: To deny the appeal. (Becker/Marshall: 5-0)

IV. Remarks from the Public (cont.)

B. Attorney Darryl Nelson told the Board that her client's due process rights were violated because he wasn't on notice as to the amount of rent increase that was being proposed – he believed that the only issue to be decided was his principal place of residence. If he had known that the rent increase would be so large, he would have attended the hearing and put on a defense.

C. Landlord Andy Park said that he owns a 12-unit building and would like to re-claim one of the parking spaces in the building for his own use. He told the Commissioners he has spoken with 3 different Rent Board counselors and 2 attorneys and received 3 different answers as to his rights in this situation.

VI. Communications

In addition to correspondence concerning cases on the calendar, the Board received the following communications:

A. A copy of Ordinance 252-06, effective November 10, 2006, which amended the Elections Code to require bond proposals to include a provision



authorizing a 50% passthrough to tenants of the change in a landlord's property tax attributable to the bond repayment. This will ensure that voters are informed of the 50% passthrough before approving a bond measure. Bonds issued by the San Francisco Unified School District or Community College District and approved after November 1, 2006 are also included.

B. A copy of Proposition H, which applies to eviction notices for certain no-fault evictions issued on or after August 10, 2006, and establishes and/or raises the amount of relocation payments landlords are liable to pay to tenants. Each authorized occupant who has resided in the unit for at least one year is now entitled to a payment of \$4,500.00, with a maximum payment of \$13,500.00 per unit. In addition, each elderly or disabled tenant, and each household with one or more minor children, is entitled to an additional payment of \$3,000.00.

C. Articles from the October 19<sup>th</sup> and November 9<sup>th</sup>, 2006 S.F. Chronicle regarding Proposition H and the current state of the San Francisco rental market.

D. A Pending Litigation Status Report from Senior Administrative Law Judge Tim Lee.

E. A letter from SRO tenant A. Wayne Ramsey thanking the Commissioners for their even-handed approach to recent amendments to the Hotel Visitor Policy.

#### VII. Director's Report

Executive Director Wolf invited the Commissioners to the annual staff Holiday Party, which will be held at Don Ramon's restaurant at noon on December 14<sup>th</sup>.

#### VIII. Old Business

##### A. Commissioners' Attendance Policy

In August 2006, the Board of Supervisors adopted Resolution 502-06, urging each City board, commission and advisory body to adopt an internal policy regarding members' attendance at meetings. Pursuant to this Resolution and in accordance with guidance from the Mayor's Office and Office of the City Attorney, staff drafted a proposed Attendance Policy for the Rent Board. The proposed Policy provides that the Executive Director shall be notified in advance of any known absence of a Commissioner; in the event of unforeseen circumstances, the Commissioner shall notify the Director as soon as reasonably possible after an absence; the Director shall report Commissioners with any non-notified absences or three consecutive absences to the Mayor's Office; and the



Director shall submit a written attendance report to the Mayor's Office at the end of each fiscal year.

MSC: To adopt the proposed Attendance Policy for the Rent Board.  
(Gruber/Becker: 5-0)

B. Mirkarimi Legislation Requiring Just Cause for the Severance or Removal of Certain Housing Services (Ordinance Section 37.2{r})

The Board continued their discussion of possible amendments to the Rules and Regulations to implement the Mirkarimi legislation, which took effect August 8<sup>th</sup>. The Commissioners discussed proposed regulations drafted by Senior Administrative Law Judge Tim Lee with input from Commissioner Justman, and requested the following changes: in proposed §13.10(b), add "capital improvement and lead remediation work" for fewer than 30 days as a carve-out to a severance, and clarify that carve-outs remain subject to a decreased housing service petition; in proposed §13.11(a), add nuisance and illegal use as just causes; in proposed §13.11(a)(3), add the requirement that a landlord's or relative's use of a housing facility be "reasonable and lawful"; and in proposed §13.11(b), clarify that only the housing facility is at issue in disputes regarding severance, but do not otherwise affect a landlord's eviction rights under Ordinance Section 37.9(a). Mr. Lee will incorporate the above suggestions into a new draft, which will be discussed at the November 28<sup>th</sup> Board meeting.

IX. Calendar Items

November 21, 2006 - NO MEETING

November 28, 2006

5 appeal considerations

6:30 Appeal Hearing: 1360 Jones St., Unit No. 602 (AL060094; acpt. 10/17/06)  
Old Business: Mirkarimi Legislation (Ordinance §37.2{r})

X. Adjournment

President Gruber adjourned the meeting at 8:45 p.m.







**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

Tuesday, 6:00 p.m.,  
November 28, 2006  
25 Van Ness Avenue, #70, Lower Level

**AGENDA**

DOCUMENTS DEPT.

NOV 28 2006

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11-28-06 10:31 AM

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

**NOTE:** Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 2629 Folsom #303 AT060116

The tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.

B. 1150 Clay #1 AT060112

The tenant appeals the dismissal of a petition seeking a determination of the lawful rent pursuant to Rules Section 6.15C(3).

C. 2155 Mission St. #110 AT060110

The tenant appeals the dismissal of a petition alleging decreased housing services because the Rent Board does not have jurisdiction where the rents are regulated under the Low Income Housing Tax Credit Program.

D. 1 Cabrillo #204 AT06011





The tenant appeals the decision determining that the base rent is a lawful amount and only partially granting claims of decreased housing services.

E. 550 Battery St. #2214

AT060113

The tenant in one unit appeals the decision granting a utility passthrough.

VI. Appeal Hearing

6:30 1360 Jones St., Unit No. 602

AL060094

(acpt. 10/17/06)

The landlord appeals a decision determining that the unit is the tenant's principal place of residence pursuant to Rules Section 1.21.

VI. Communications

VII. Director's Report

Mirkarimi Legislation Requiring Just Cause for the Severance or Removal of Certain Housing Services (Ordinance Section 37.2{r})

VIII. Old Business

IV. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

IX. New Business

X. Calendar Items

XI. Adjournment





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DAVID GRUBER  
PRESIDENT

LARRY BEACH BECKER  
VICE-PRESIDENT

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

**MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

Tuesday, November 28, 2006 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

DEBORAH HENDERSON

JIM HURLEY

ANTHONY JUSTMAN

POLLY MARSHALL

CATHY MOSBRUCKER

NEVEO MOSSER

BARTHOLOMEW MURPHY

I. Call to Order

President Gruber called the meeting to order at 6:10 p.m.

II. Roll Call

Commissioners Present: Becker; Gruber; Henderson; Hurley;  
Justman; Marshall; Mosbrucker; Mosser;  
Murphy.

Staff Present: Brandon; Lee; Wolf.

Commissioner Marshall went off the record at 6:45 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of November 14, 2006 with the  
following correction: on the Agenda, the second appeal number  
for the case at 1851 – 8<sup>th</sup> Ave. #4 should be AT060105 instead  
of AL060105. (Murphy/Gruber: 5-0)

IV. Remarks from the Public

A. Tenant Patrick Propst at 2629 Folsom St. (AT060116) told the Board  
that he is on SSI, so he shouldn't have to pay the capital improvement  
passthrough.

B. Dorene Nudelman spoke on behalf of her mother, the landlord in the  
case at 1150 Clay #1 (AT060112). Ms. Nudelman said that her mother is renting  
a room to the tenant, who has been given a Notice to Vacate. Now, the tenant  
has taken them before the Rent Board, refuses to leave the premises, and  
refuses to appear at the hearing. Ms. Nudelman asked the Commissioners what  
she should do.





C. Tenant Phillip Page of 550 Battery St. #2214 (AT060113) told the Board that the basis of his appeal is that utility costs are included in the initial rent. If these costs are not indexed over time, there is a discrepancy between their relationship to the rent. At the Golden Gateway complex, Mr. Page believes that this amounts to in excess of \$200,000 for all the tenants who reside on the premises.

V. Consideration of Appeals

A. 2629 Folsom #303

AT060116

The landlord's petition for certification of capital improvement costs was granted, resulting in a monthly passthrough in the amount of \$29.41 to the tenants in 9 of 18 units. The tenant in one unit appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case to the Administrative Law Judge for a hearing on the tenant's claim of financial hardship. (Becker/Marshall: 5-0)

B. 1150 Clay #1

AT060112

The tenant's petition seeking a determination of the lawful rent pursuant to Rules Section 6.15C(3) was dismissed due to the tenant's failure to appear at the properly noticed hearing. On appeal, the tenant claims not to have received the notice of hearing, and attaches the requisite Declaration of Non-Receipt of Notice of Hearing.

MSC: To continue consideration of the appeal in order for staff to contact the tenant and obtain a Declaration as to why the Notice of Hearing wasn't received and to clear up any confusion regarding the tenant's mailing address. (Justman/Becker: 5-0)

C. 2155 Mission St. #110

AT060110

The tenant's petition alleging decreased housing services was dismissed because the rents are regulated under the Low Income Housing Tax Credit Program and the Rent Board does not have jurisdiction. The tenant appeals, asserting that: the landlord's response to the tenant's petition includes the names of individuals who no longer live in the unit; the lease introduced as evidence by the landlord is not the lease that the tenant signed; the tenant's complaint has to do with water damage to his unit; and the tenant has been harassed and discriminated against by building management.



MSC: To deny the appeal except to remand the case to the  
Administrative Law Judge for a necessary Technical Correction.  
(Justman/Marshall: 4-1; Murphy dissenting)

D. 1 Cabrillo #204

AT060111

The tenant's petition alleging decreased housing services and asking that the Rent Board determine the tenant's lawful rent was granted only as to a defective door lock for which the landlord was found liable in the amount of \$37.50. On appeal, the tenant claims that: she did not understand a mediated agreement that she signed in 2003; the ALJ did not allow her witness to testify on the tenant's behalf; and her base rent should be reduced by \$40.00 to compensate for a parking space she voluntarily relinquished.

MSC: To deny the appeal. (Murphy/Gruber: 5-0)

E. 550 Battery #2214

AT060113

The landlord's petition for approval of a utility passthrough for 4 of 794 units was granted. One tenant appeals the decision, arguing that the decision allows the landlord to recover a portion of their utility costs twice, since the base rate for utilities is built into the tenants' base rents in their original leases.

MSC: To deny the appeal. (Murphy/Gruber: 3-2; Becker,  
Marshall dissenting)

#### VI. Appeal Hearing

1360 Jones St., Unit No. 602

AL060094

(acpt. 10/17/06)

An appeal hearing began at 6:50 p.m. and concluded at 8:45 p.m. In attendance were tenant Catrina Paulson accompanied by her attorney, Nils Rosenquist, and witnesses Andreas Papaliolis and Don Feinberg. The landlord was represented by Attorney Daniel Stern; landlord witness Don Mac Ritchie was also present and testified for the landlord. The issue in the case is whether the subject unit was the tenant's principal place of residence at the time the petition was filed. Testimony focused on the conditions that mitigated against the tenant staying at the unit, including the birth of twins, windows that are unsafe for children and current on-going construction in the building. Prior to the conclusion of the hearing, President Gruber asked whether the parties would like an opportunity to discuss settlement, which offer was accepted. The attorneys reported back to the Board that a settlement had not been reached, and would be difficult to attain



in the limited time period remaining. Accordingly, the Commissioners agreed to continue this case to the Board meeting on December 12<sup>th</sup>. If no settlement has been reached by that time, the attorneys will give closing arguments and the Commissioners will decide the case at that meeting.

#### VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. A schedule of tentative Board meeting dates for 2007.

B. Revised draft regulations implementing Ordinance §37.2(r) requiring Just Cause for removal of specified housing services from Senior Administrative Law Judge Tim Lee.

C. A copy of Ordinance Number 281-06 amending the Rent Ordinance to include units in buildings for which tax credits are reserved or obtained pursuant to the federal low income housing tax credit program.

D. A November 26th article from the Sunday Real Estate section of the San Francisco Chronicle quoting President Gruber on the business practices of landlord Matthew Hallinan.

#### VII. Director's Report

Executive Director Wolf informed the Commissioners that the annual allowable increase commencing March 1, 2007 would be 1.5%.

#### VIII. Old Business

Mirkarimi Legislation Requiring Just Cause for the Severance of Removal of Certain Housing Services (Ordinance Section 37.2(r))

Further discussion of this issue was continued to the next Board meeting, on December 12, 2006.

#### IV. Remarks from the Public (cont.)

D. The tenant in case number T061360 told the Board that he requested a postponement of his hearing because he needs more time to amend his petition and gather documents and evidence. The tenant needs additional time because he will be forced to go to arbitration if the case can't be settled through mediation. The tenant believes that the landlord has no respect for the laws of this country.



IX. Calendar Items

December 5, 2006 - NO MEETING

December 12, 2006

6:30

4 appeal considerations

Appeal Hearing: 1360 Jones St., Unit No. 602

AL060094

(cont. from 11/28/06)

Old Business: Mirkarimi Legislation (Ordinance §37.2{r})

New Business: Rules and Regulations Changes Necessitated by Prop. H

X. Adjournment

President Gruber adjourned the meeting at 9:10 p.m.







**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

DAVID GRUBER  
PRESIDENT

LARRY BEACH BECKER  
VICE-PRESIDENT

Tuesday, **6:30 p.m.**,  
December 12, 2006  
25 Van Ness Avenue, #70, Lower Level

**AGENDA**

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12-08-06A11:17 REV D

DEBORAH HENDERSON

JIM HURLEY

ANTHONY JUSTMAN

POLLY MARSHALL

CATHY MOSBRUCKER

NEVEO MOSSER

BARTHOLOMEW MURPHY

I. Call to Order

II. Roll Call

III. Approval of the Minutes

IV. Remarks from the Public

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

V. Consideration of Appeals

A. 25 Hinckley Walk

AT060118

One tenant appeals the decision granting a utility passthrough on the grounds of financial hardship.

B. 1750 Greenwich #6

AL060117

The landlord appeals the determination that the tenant is a "Tenant in Occupancy" pursuant to Rules Section 1.21.

C. 1539-43 Larkin St.

AL060119

The landlord appeals the decision granting a utility passthrough.

D. 1150 Clay St. #1

AT060112

(cont. from 11/28/06)

The tenant appeals the dismissal of a petition seeking a determination of the lawful rent pursuant to Rules Section 6.15C(3).



VI. Appeal Hearing

1360 Jones St., Unit No. 602

AL060094

(cont. from 11/28/06)

VII. Communications

VIII. Director's Report

IX. Old Business

Mirkarimi Legislation Requiring Just Cause for the Severance or Removal of Certain Housing Services (Ordinance §37.2{r})

IV. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

X. New Business

Rules and Regulations Amendments Necessitated by Proposition H

XI. Calendar Items

XII. Adjournment





## ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4603 at least 72 hours prior to the meeting. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4603 to place your specific request. Late requests will be honored if possible.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4603。

Se pueden obtener servicios de traduccion, ampliacion de sonida, u otras formas de presentacion si se solicitan por lo menos 72 horas antes de la reunion. Llame al 252-4603 para hacer su solicitud.

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals.

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. All MUNI Metro lines at Van Ness and Market Street are accessible. For other accessible MUNI lines serving this location and information about MUNI accessible services, call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

## Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Timothy Lee has been designated to coordinate this agency's compliance with the nondiscrimination requirements of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided under the Act, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845.

## Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlet Place, Room 244, San Francisco, CA 94102 at 554-7724.





GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

**MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

DAVID GRUBER  
PRESIDENT

LARRY BEACH BECKER  
VICE-PRESIDENT

Tuesday, December 12, 2006 at 6:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

DEBORAH HENDERSON  
JIM HURLEY  
ANTHONY JUSTMAN  
POLLY MARSHALL  
CATHY MOSBRUCKER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

I. Call to Order

DOCUMENTS DEPT.

President Gruber called the meeting to order at 6:35 p.m.

JAN - 3 2007

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II. Roll Call

Commissioners Present: Becker; Gruber; Henderson; Hurley;  
Mosbrucker; Mosser.

Commissioners not Present: Marshall; Murphy.

Staff Present: Lee; Wolf.

Commissioner Justman appeared on the record at 6:39 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of November 28, 2006.  
(Becker/Hurley: 4-0)

IV. Remarks from the Public

A. Gina Delle-Sedie, the landlord in the case at 1750 Greenwich #6 (AL060117), told the Board that this is the first dispute she has experienced in the history of her ownership of the building. Ms. Delle-Sedie averred that the tenant has been absent from the building since 1999 or 2000, and said it is normal that she is taking care of her mother, but that this shouldn't deprive others. The tenant had alleged that other tenants in the building were pressured into writing support letters on behalf of the landlord; Ms. Delle-Sedie finds this "outrageous and insulting," and said that these tenants are present to testify that the tenant doesn't live in the building.

B. Tenant Angelina Fioretti of 1750 Greenwich told the Commissioners that she hasn't seen the tenant-appellee in the building for seven years.





V. Consideration of Appeals

A. 25 Hinckley Walk

AT060118

The landlord's petition for approval of a utility passthrough to 6 of 794 units was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case to the Administrative Law Judge for a hearing on the tenant's claim of financial hardship. (Becker/Mosbrucker: 5-0)

B. 1750 Greenwich #6

AL060117

The landlord's petition seeking a determination pursuant to Rules Section 1.21 was denied because the ALJ found that the subject unit is the tenant's principal place of residence, and she is only temporarily residing in Marin County to care for her disabled mother. On appeal, the landlord argues that: the facts in the case do not support the conclusions arrived at by the ALJ and there are factual errors in the decision; an absence of six years' duration is too long for a tenant to remain a "Tenant in Occupancy;" the San Rafael address is listed on the tenant's driver's license and other facts not favorable to the tenant are omitted from the decision; a subtenant pays the majority of the rent for the unit; the tenant has no plans as to when she will return to the unit; a post-hearing submission from the tenant should not have been entered into evidence; and a rent increase would be warranted under Costa-Hawkins since the other occupant of the unit is a post January 1, 1996 subtenant.

MSC: To continue consideration of this appeal for eight months, at which time supplemental evidence shall be introduced by both parties. If the tenant's circumstances should change prior to that time, either party can request that the appeal be re-considered at an earlier date.  
(Justman/Hurley: 4-1; Becker dissenting)

C. 1539-43 Larkin St.

AL060119

The landlord's petition for approval of a utility passthrough for 2 of 6 units was granted. The landlord appeals, asking that an exception to the Rules and Regulations be made, since only three units in the building are connected to the steam heating system and the landlord does not think it fair that he has to divide the costs among all the units in the building.

MSC: To deny the appeal. (Justman/Becker: 5-0)



D. 1150 Clay #1

AT060112  
(cont. from 11/28/06)

The tenant's petition seeking a determination of the lawful rent pursuant to Rules Section 6.15C(3) was dismissed due to the tenant's failure to appear at the properly noticed hearing. On appeal, the tenant claimed not to have received the notice of hearing, and attached the requisite Declaration of Non-Receipt of Notice of Hearing. At their meeting on November 28<sup>th</sup>, the Board voted to continue consideration of the appeal in order for staff to contact the tenant and obtain a Declaration as to why the Notice of Hearing wasn't received and to clear up any confusion regarding the tenant's mailing address.

MSC: To accept the appeal and remand the case for a new hearing.  
Should the tenant again fail to appear, absent extraordinary circumstances, no further hearings will be granted.  
(Becker/Mosbrucker: 5-0)

VI. Appeal Hearing

1360 Jones St., Unit No. 602

AL060094  
(cont. from 11/28/06)

The parties were given additional time for settlement discussions, and informed the Board that a settlement agreement had been reached. The case was therefore taken off calendar, and will be re-calendared only if the parties advise that it is necessary.

VII. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. The office workload statistics for the month of October, 2006.

B. An updated Staff Roster.

C. A Memorandum from Senior Administrative Law Judge Tim Lee regarding proposed revisions to Rules §12.15(d) to conform that Section's relocation payments for temporary capital improvement evictions to the increased amounts mandated by Proposition H.

VIII. Director's Report

Executive Director Wolf wished the Commissioners joyful and healthy holidays.



IX. Old Business

Mirkarimi Legislation Requiring Just Cause for the Severance or Removal of Certain Housing Services (Ordinance §37.2{r})

Discussion of this issue was continued to the next meeting.

IV. Remarks from the Public (cont.)

C. The landlord in the case at 1539-43 Larkin St. (AL060119) informed the Board that, subsequent to the filing of his appeal, he had gathered additional information that could be used to make a more empirical calculation of utility costs in the building.

X. New Business

Proposed Revision to Rules and Regulations §12.15(d) to Conform to Proposition H re Relocation Payments for Temporary Capital Improvement Evictions

Discussion of this issue was continued to the next meeting.

XI. Calendar Items

December 19<sup>th</sup> & 26<sup>th</sup>, 2006 & January 2, 2007- NO MEETINGS

January 9, 2007

7 appeal considerations

Old Business:

A. Mirkarimi Legislation (Ordinance §37.2{r})

B. Rules & Regs. Changes Necessitated by Prop. H

XII. Adjournment

President Gruber adjourned the meeting at 7:40 p.m.











